

AASB Boot Camp

Legal Rights & Responsibilities



John M. Sedor
November 8th, 2018



SEDOR WENDLANDT EVANS FILIPPI

We take the law seriously, not ourselves!

SEWOR WENDLANDT EVA... ILLIPPI LLC





On a serious note: This is a presentation. It is for educational purposes only. It is not and is not intended to be legal advice. If legal advice is wanted, please follow appropriate district and/or school procedures



Board Member Powers in General

"I am nothing without this suit."
-Friendly Neighborhood Spiderman

Bruce Banner's powers
come when he gets, shall
we say, *frustrated*.

When does a school board
member's powers exist?



A regional school board may

There is no
“I” in “team”

or regional board for
and equipment; the
ment Code);

- (1) sue and be sued;
- (2) contract with the department, for the provision of services, facilities, or regional board for
- (3) determine its own fiscal procedure; regional school boards are exempt from
- (4) appoint, compensate, and otherwise subject to AS 39.25 (State Personnel Code);
- (5) adopt regulations governing organization, policies, and procedures for the operation of the schools; these employees are not
- (6) establish, maintain, operate, discontinue, and combine schools subject to the approval of the commissioner;
- (7) recommend to the department projects for construction, rehabilitation, and improvement of schools and education-related facilities as specified in AS 14.11.011(b), and plan, design, and construct the project when the responsibility for it is assumed under AS 14.11.020;
- (8) by resolution adopted by a majority of all the members of the board and provided to the commissioner of the department, assume ownership of all land and buildings used in relation to the schools in the regional educational attendance area, as provided for in AS 14.08.151(b);
- (9) provide housing for rental to teachers, by leasing existing housing from a local agency or individual, by entering into contractual arrangements with a local agency or individual to lease housing that will be constructed by the local agency or individual for that purpose, or, without using for the purpose that portion of public school funding that consists of state aid provided under AS 14.17, by constructing or otherwise acquiring housing that is owned and managed by the regional educational attendance area for rental to teachers;
- (10) employ a chief school administrator;
- (11) apply for and use the proceeds of a loan from the Alaska energy efficiency revolving loan fund (AS 18.56.855);
- (12) exercise those other functions that may be necessary for the proper performance of its responsibilities.



Anchorage School Board Code of Conduct
Communication between the Board and
Community

Receive information provided to

1. An individual Board Member has the right to:

a) receive information provided by the School Board,

b) attend and participate in

committee meetings (regular committee, ad hoc committee, work sessions, executive sessions, regular board meetings, special board meetings, retreats); and

c) vote at regular board meetings and special board meetings, in accordance with School Board policy and the Code of Ethics. Board members who are officers of the Board may have additional rights as outlined in the Code of Conduct, School Board policy and law.

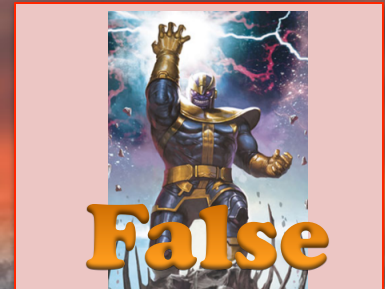
Attend and participate in board and committee meetings

Vote

Let's pretend things are a bit challenging in Juneau (and I'm not just talking about the weather). Although you are not the Board President, you get invited to go on local TV for an unscripted interview. You are lured into a verbal attack against certain legislators and those who oppose both pre-K funding and investment in public schools in general. Unfortunately, a well-connected Senator, and friend of Tony Stark, hears your interview and decides to sue you. No worries: the District will insure and indemnify you for legal costs and any potential settlement or judgment.



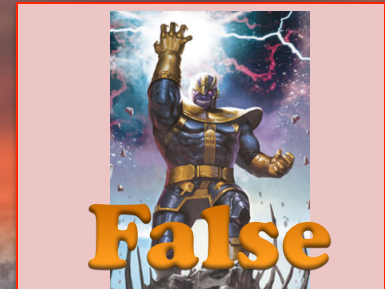
or



Let's pretend. You're on the Board. A primary duty of the Board is to evaluate the Superintendent. You and other Board members have concerns and note your concerns on the evaluation and in a letter of warning to the Superintendent. Let's also pretend it's hard to keep secrets. Sometimes too hard. You email the evaluation and letter of warning to a parent who you trust... Unfortunately, your trust is misplaced. You get a demand letter from the Superintendent's attorney. No worries: the District will insure and indemnify you for legal costs and any potential settlement or judgment.



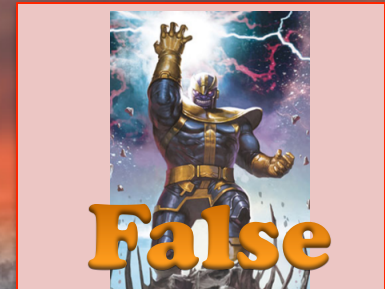
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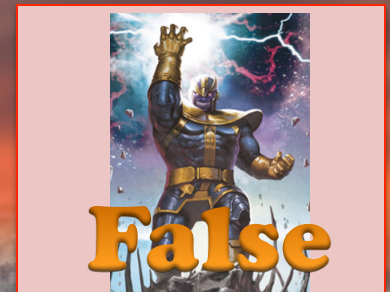
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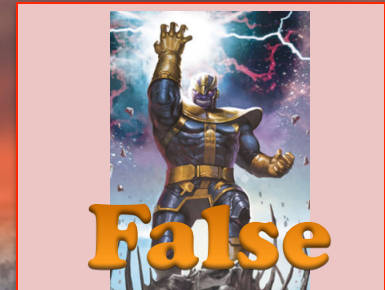
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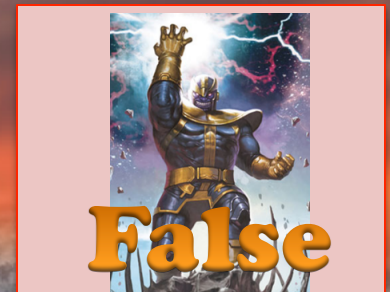
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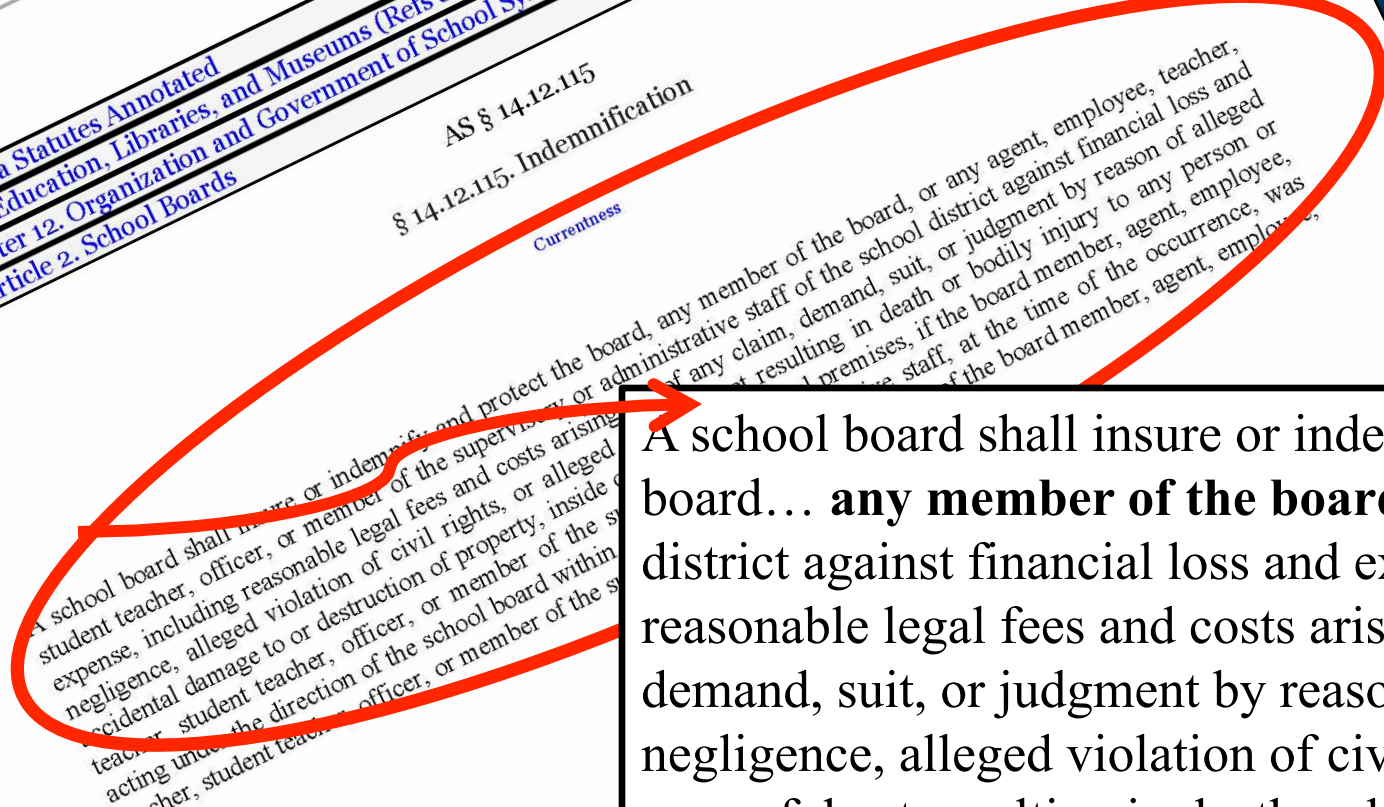


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AS § 14.12.115
§ 14.12.115. Indemnification

Currentness



A school board shall insure or indemnify and protect the board, any member of the board, or any agent, employee, teacher, student teacher, officer, or member of the supervisory or administrative staff of the school district against financial loss and expense, including reasonable legal fees and costs arising from any claim, demand, suit, or judgment by reason of alleged negligence, alleged violation of civil rights, or alleged accidental damage to or destruction of property, inside or outside the school premises, if the board member, agent, employee, or member of the staff, at the time of the occurrence, was acting under the direction of the school board within the course or scope of the duties of the board member, agent, employee, or member of the staff.

A school board shall insure or indemnify and protect the board... **any member of the board...** of the school district against financial loss and expense, including reasonable legal fees and costs arising out of any claim, demand, suit, or judgment by reason of alleged negligence, alleged violation of civil rights, or alleged wrongful act resulting in death or bodily injury to any person or accidental damage to or destruction of property, inside or outside the school premises, if the board member... at the time of the occurrence, was acting under the direction of the school board within the course or scope of the duties of the board member...

Credits

SLA 1978, ch. 148, § 2.

AS § 14.12.115, AK ST § 14.12.115
Current with Chapters 2-17, 19-24, 2

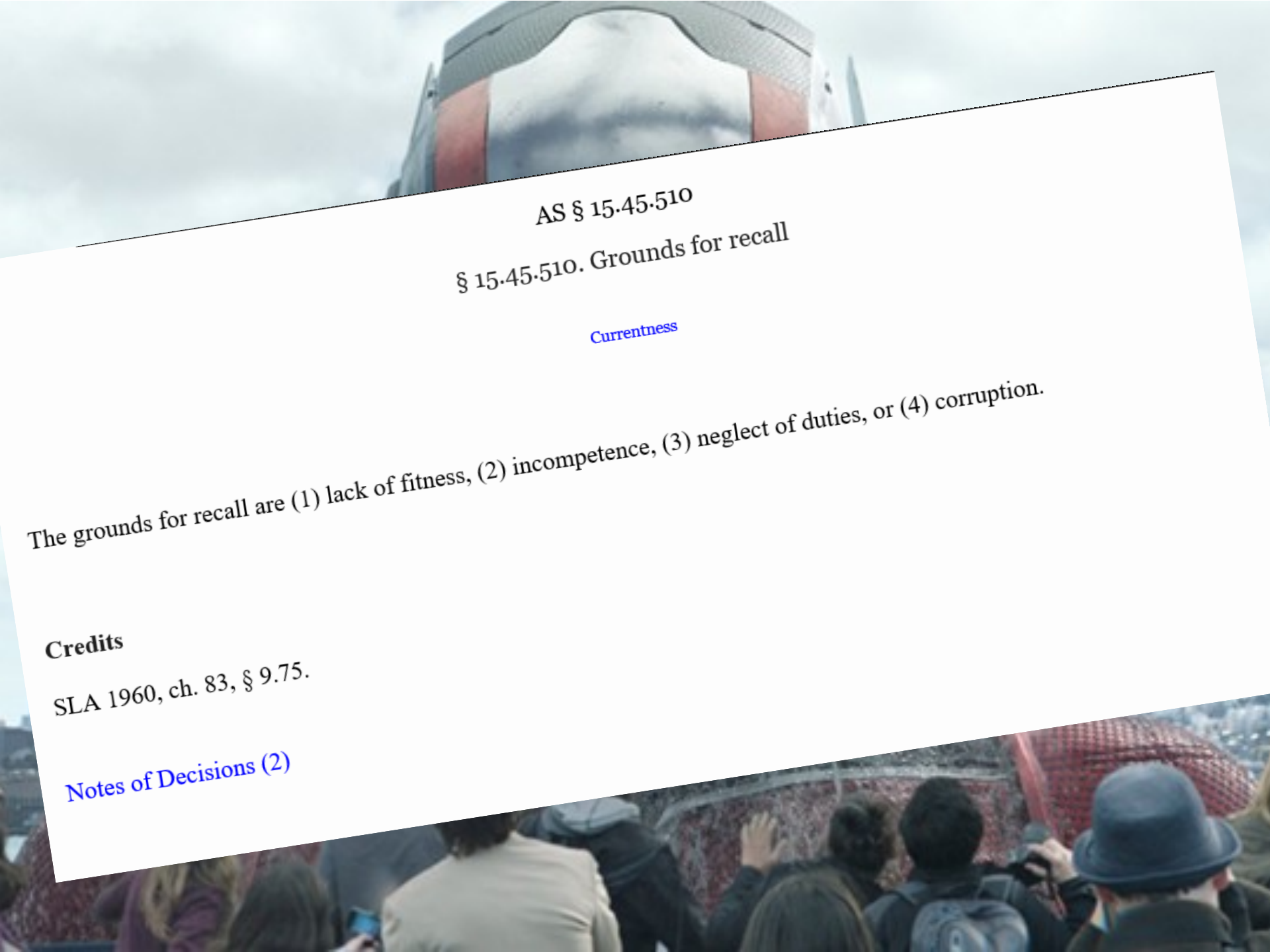
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Can your powers as a board member be taken away?



Can your powers as a
board member be taken
away?





AS § 15.45.510

§ 15.45.510. Grounds for recall

[Currentness](#)

The grounds for recall are (1) lack of fitness, (2) incompetence, (3) neglect of duties, or (4) corruption.

Credits

SLA 1960, ch. 83, § 9.75.

[Notes of Decisions \(2\)](#)



What is micromanagement?



You are focused on going above and beyond the call of duty as a board member. You read the entire budget for the next regular meeting and realize that you need to “drill down” in order to be prepared at some point to make tough budget decisions. You contact the superintendent and request a current personnel scattergram be created. You also ask for a listing of expenditures, including all backup, for the last 3 years to identify trends and cost saving areas.

Because this information is important, you are entitled to it.



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Anchorage S
Board Member R

1. A Board Member who requests information that is not readily available by the Superintendent and the Board Secretary to the Board will be placed on the agenda as a Request For Information (RFI) at the next regular Board Meeting to determine the Board's desire for the information.
2. Information requested by a Board Member to the entire Board will be placed on the agenda as a Request For Information (RFI) at the next regular Board Meeting to determine the Board's desire for the information.

If the requested information requires significant staff time or cost, and the Board Member wishes to proceed, the request will be placed on the agenda as a Request For Information (RFI) at the next regular Board Meeting to determine the Board's desire for the information.

3. If the requested information requires significant staff time or cost, and the Board Member wishes to proceed, the request will be placed on the agenda as a Request For Information (RFI) at the next regular Board Meeting to determine the Board's desire for the information.
4. If the Board determines to proceed with the request for information, it will determine with the Superintendent an appropriate timeline and means for presentation of the information to all Board Members. That determination will be made at the same meeting that the Board directs the development of the requested information.

Anchorage School Board Code of Conduct
Communication Between the Board and ASD Staff

1. Recognizing that Board Members may be approached by staff

members
be "off the

a. Avoid c
informati
to know"
individual
compliance

b. Listen p
actions to be taken.

c. Keep the Superintendent informed as to the issue when it represents a significant concern to the ASD, though not always identifying who provided the information.

2. Communication pertaining to criminal, health or safety issues will be referred to the appropriate authorities or staff for action.

3. Board members may request information from ASD staff that is readily available. If the information is not readily available, the staff may refer the request to the Superintendent as a Request for Information (RFI).

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Open Meetings Act



The Open Meetings Act is designed to allow the public to watch board members deliberate and vote on agenda items. The School District just reorganized its board using secret voting (and cloakroom discussions).

The new Board President is revealed during the first regularly scheduled board meeting.

Has the board violated the Open Meetings Act?

Yes

No

SECURITY LEVEL 10
OR ABOVE REQUIRED

The Open Meetings Act is designed to allow the public to watch board members deliberate and vote on agenda items. The School District just reorganized its board using secret voting (and cloakroom discussions).

The new Board President is revealed during the first regularly scheduled board meeting.

Has the board violated the Open Meetings Act?

Yes

No

SECURITY BREACH
"I'll start my own Avengers Team...
With the Ninja Turtles!"
-Friendly Neighborhood Spiderman

[Title 44](#). State Government

[Chapter 62](#). Administrative Procedure Act

Section 310. Government Meetings Public.

previous: [Section 305](#). Judicial Relief in Administrative Matters.
next: [Section 312](#). State Policy Regarding Meetings.

AS 44.62.310. Government Meetings Public.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

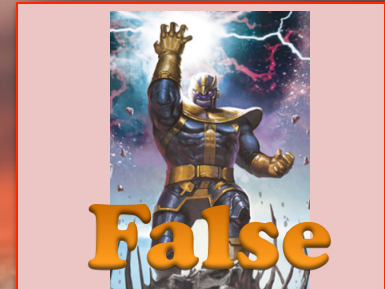
You and another board member are having lunch on the steps of the old Federal Building on 4th Avenue (it's not that cold, ☺, and the hot dogs are on sale for only \$8 each!)

You are discussing the upcoming board meeting agenda and how you plan to vote. You have not violated the OMA.

“Always be yourself, unless you can be Spiderman; then always be Spiderman.”



or

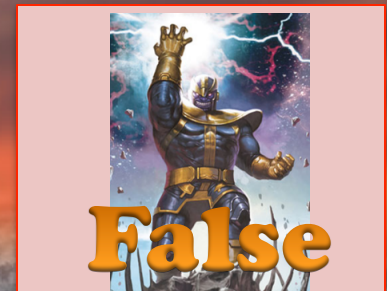


Another board member walks by, notices a mustard stain on your shirt, and stops to chat.

The discussion again turns to the upcoming board agenda. Now you have violated the OMA.



or



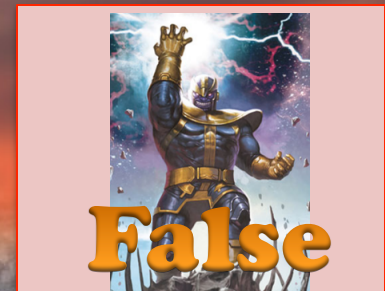
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If 5 person board



If 7 person board



AS § 44.62.310

§ 44.62.310

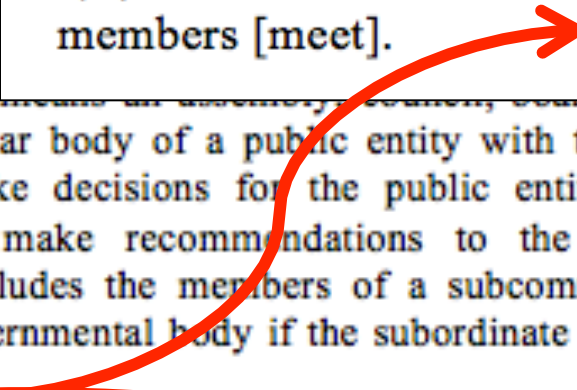
(h) In this section,

(1) "governmental body" means an assembly, council, board, committee, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity, or

(2) "meeting" means a gathering of members of a governmental body when
(A) more than three members or a majority of the members [meet].



Your School Board has chosen you to be on the Staff Curriculum and Equity committee. You will meet with four curriculum development staff, the HR director, and the CFO the third Friday of every month to discuss curriculum and equity. **You are subject to the Open Meetings Act Posting Requirement.**

“Are you a cop?”
“You seriously think I’m a cop?”
In a skin tight red and blue suit?!”
-Friendly Neighborhood Spiderman

True

or

False



Your School Board has chosen you to be on the Staff Curriculum and Equity committee. You will meet with four curriculum development staff, the HR director, and the CFO the third Friday of every month to discuss curriculum and equity. **You are subject to the Open Meetings Act Posting Requirement.**

“Are you a cop?”
**“You seriously think I’m a cop?
In a skin tight red and blue
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-Friendly Neighborhood Spiderman



AS § 44.62.310

§ 44.62.310. Government meetings public

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken in this subsection.

(b) If permitted subjects are to be discussed, the meeting must first be convened as a public meeting. An executive session to discuss matters that are listed in this section requires a majority vote of the governmental body. The motion must clearly and with specificity describe the subjects to be discussed.

without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law.

AS § 44.62.310

§ 44.62.3

(h) In this section,

(2) "meeting" means a gathering of members of a governmental body when
(A) more than three members or a majority of the members [meet].

(1) "governmental body" means an assembly, council, board, committee, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members:

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity, or

§ 44.62.310. Government meetings public, AK ST § 44.62.310

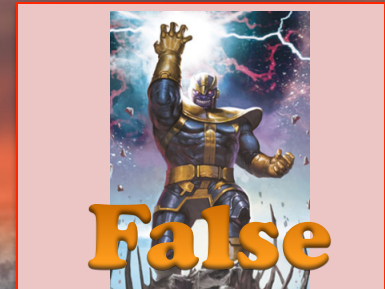
(d) This section does not apply to

- (1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;
- (2) juries;
- (3) parole or pardon boards;
- (4) meetings of a hospital medical staff;
- (5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges, or discipline;
- (6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents;
- (7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings; or
- (8) meetings of municipal service area boards established under AS 29.35.450--29.35.490 when meeting solely to act on matters that are administrative or managerial in nature.

You and a Board member colleague are selected for the Board Legislative Affairs Committee for your Board. You two meet regularly and often both here and in Juneau and you receive many kudos from the Board, the community, and several legislators. You also receive ... a summons (lawsuit) for not posting your meetings. You will win the lawsuit.



or



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(A) more than three members or a majority of the members, whichever is less, are present, the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act is considered a meeting if the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

(B) more than three members or a majority of the members, whichever is less, are present, the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act, and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

(B) more than three members or a majority of the members, whichever is less, are present, the gathering is prearranged for the purpose of considering a matter upon which the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

§ 44.62.310. Government meetings public, AK ST § 44.62.310

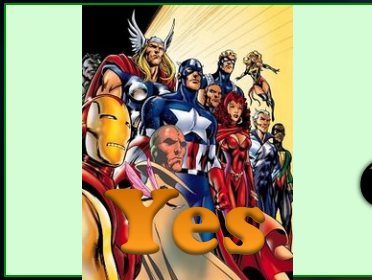
(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.



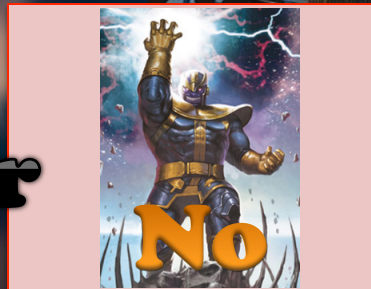
There is a regularly-scheduled School Board meeting next week. One of the items on the agenda is a proposed expenditure of \$500,000 to repair the playground equipment at an elementary school.

You are at home trying to figure out how the price of swing sets got to be so high. A neighbor with elementary-aged kids stops by and begins to discuss the need for the playground repairs with you. Shortly thereafter, a parent of high-school-aged children stops by and argues against the playground expenditure in these difficult fiscal times.

Before you know it, five or six of your neighbors have joined in this friendly afternoon debate. Then a fellow Board Member arrives unexpectedly and joins in the discussion. During the debate, you decide to vote for the expenditure. **Have you violated the Open Meetings Act?**



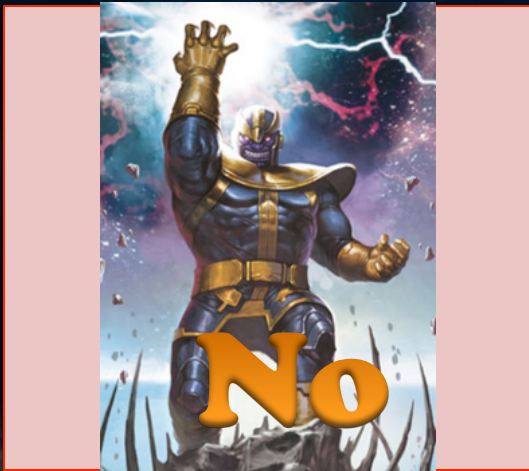
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The OMA applies to which of the following types of meetings?

- A. Regular Meetings
- B. Executive Sessions
- C. Special Meetings
- D. Work Session Meetings
- E. All of the Above
- F. Only A, B, and D.



The OMA applies to which of the following types of meetings?

E. All of the Above



AS § 44.62.310

§ 44.62.310. Government meetings public

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by [AS 44.62.175\(a\)](#), the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal

[Title 44](#). State Government

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What is a work session?

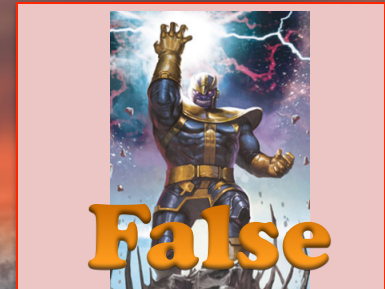


So there you are: sitting in a work session on a blue sky, November day. Your focus on the meeting keeps getting distracted by thoughts of summer shrimping trips out of the Prince William Sound. Suddenly, you snap to attention: a fellow board member has just moved to go into an Executive Session during a Work Session. No matter how well crafted the motion, the board cannot go into an Executive Session during a Work Session.

*“Secrets have a cost. They’re not free. Not now, not ever.”
-Spiderman*

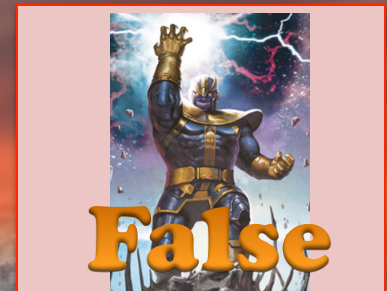


or



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[Title 44](#). State Government

[Chapter 62](#). Administrative Procedure Act

Section 310. Government Meetings Public.

previous: [Section 305](#). Judicial Relief in Administrative Matters.
next: [Section 312](#). State Policy Regarding Meetings.

AS 44.62.310. Government Meetings Public.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

This section does not apply to

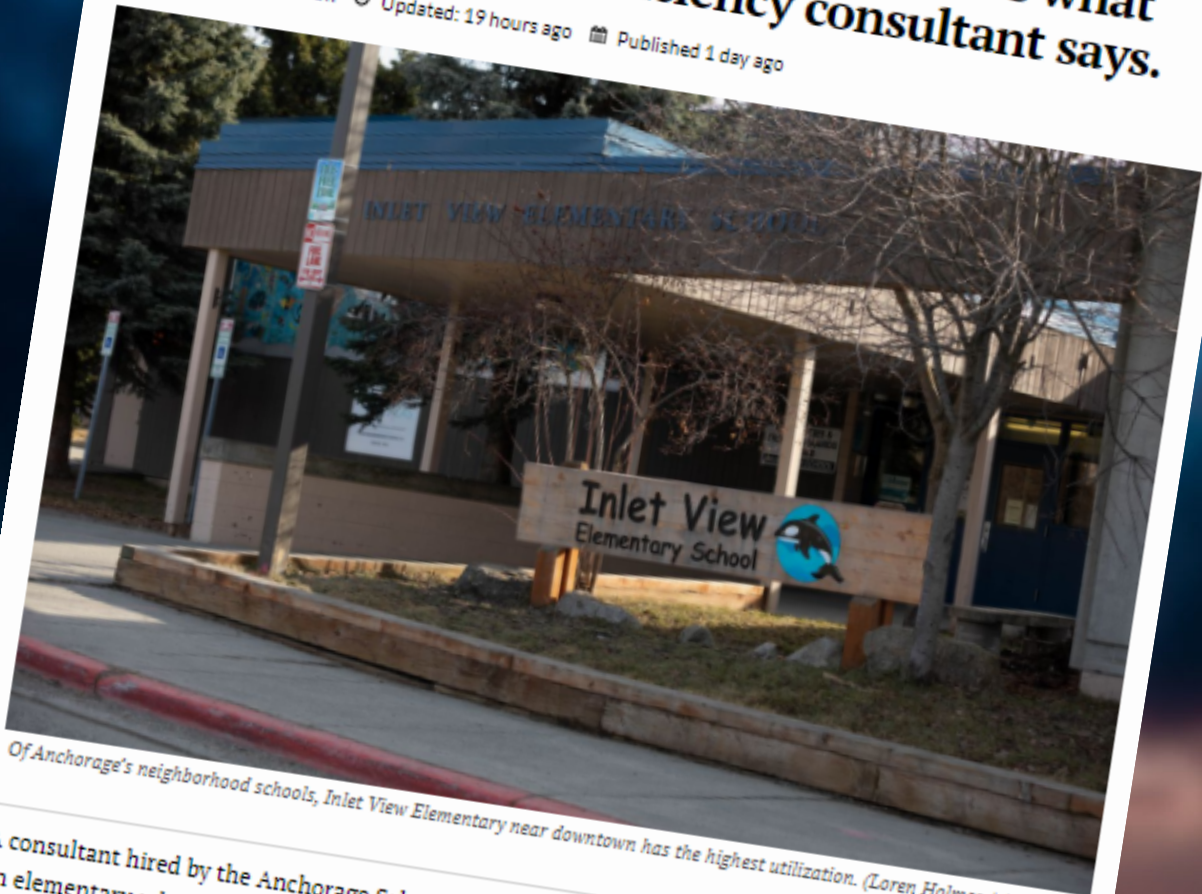


Book	ASD Policies – prior to 1/22/18
Section	Section 100 - Board of Education
Title	Work Sessions
Number	165.4
Status	Active

Work sessions shall be for an informal discussion by the Board. Work sessions may be called by the President or by three members of the Board. Notice shall be given as provided in Sections 161 and 163, with discussion limited to issues specified in the public notice. No official action shall be taken at work sessions.

Should Anchorage close schools? Here's what the school district's efficiency consultant says.

Author: Tegan Hanlon Updated: 19 hours ago Published 1 day ago



Of Anchorage's neighborhood schools, Inlet View Elementary near downtown has the highest utilization. (Loren Holmes / ADN)

A consultant hired by the Anchorage School District suggested in a recent report that the district close an elementary school on Joint Base Elmendorf-Richardson and rebuild a tiny but popular school near downtown.

The report, by Shannon Bingham of Colorado-based Western Demographics, showed that some of Anchorage's 75 or so neighborhood schools are in high demand, like Inlet View Elementary in South Addition, while others aren't, like Aurora and Orion elementary schools on base.

Your school district does not have as much money as it would like ... and that was before the election! 😊

In fact, it has been common knowledge for quite some time that the District is going to have to make substantial cuts in its budget for the 2019-2020 school year.

Because of the size of the cuts that are needed and the fact that several of the District's elementary schools are not at capacity, the administration has recommended the closure of one of the elementary schools.

Because of the importance of this issue, the Board President decides to call a special meeting devoted solely to whether or not the Board should close the school. Board policy requires 24 hour notice of special meetings. The Administration timely posts notice of the special meeting **25 hours** prior to the meeting.

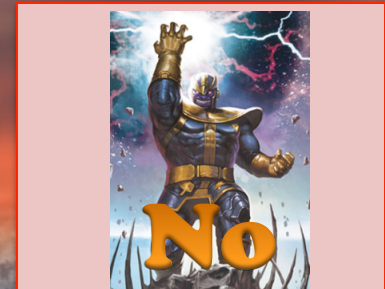
The meeting occurs and the Board eventually agrees with the administration and votes to close the school.

Has there been a violation of the open meetings act?

*"You're not Superman, you know."
- Aunt May to Peter Parker*



or



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The meeting occurs and the Board eventually agrees with the administration and votes to close the school.

Has there been a violation of the open meetings act?

*"You're not Superman, you know."
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AS § 44.62.310

§ 44.62.310. Government meetings public

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by [AS 44.62.175\(a\)](#), the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal

KeyCite Snow Flag - Negative Treatment
Distinguished by Municipality of Anchorage v. Repasky, Alaska,
October 26, 2001

631 P.2d 67
Supreme Court of Alaska.

Charles R. **TUNLEY** et al., Appellants and
Cross-Appellees,
v.
MUNICIPALITY OF ANCHORAGE SCHOOL
DISTRICT et al., Appellees and Cross-Appellants.

Nos. 4796, 4797 and 4826.
Sept. 12, 1980.

As Amended on Denial of Rehearing Jan. 29, 1981.

Suits by parents of school age children to prevent closure of elementary schools in district were consolidated. The Superior Court, Third Judicial District, Anchorage, J. Justin Ripley, J., granted summary judgment in favor of school district and parents appealed. The Supreme Court, Rabinowitz, J., held that: (1) peremptory challenge by one parent or judge was timely; (2) the parent did not, by his actions, waive his right to a peremptory challenge of judge; (3) municipal assembly was authorized to initially determine location of school buildings, but was not inferentially authorized to determine which schools were to discontinue operations; (4) authority to decide whether schools should be closed was vested in school board; (5) approval by the Department of Education was not required before closure action by school board; (6) municipal assembly was required by charter to adopt a procedure for closure of school buildings, but its failure to do so was not a bar to the school board's action.

The principle of *Gieffels* that statute created substantive right to peremptory challenge but that rule of criminal procedure determined whether the right was properly exercised and the procedural effect of peremptory challenges of a judge in civil proceedings. AS 22.20.022; Rules of Civil Procedure, Rule 42(c).

3 Cases that cite this headnote

[2] Judges
Time of making objection

Peremptory challenge to judge which was made by one plaintiff in consolidated cases on day after being notified that his case was effectively reassigned to that judge was "filed before commencement of trial and within five days after notice of that the case had been assigned to a specific judge" and was timely in that plaintiff had notice as to specific judge who would be hearing his case only when consolidation, which both he and other plaintiff opposed, and assignment to particular judge was ordered. AS 22.20.022; Rules of Civil Procedure, Rule 42(c).

4 Cases that cite this headnote

[8] Judges
Waiver of Disqualification or Objections

Plaintiff did not waive his right to a peremptory challenge of judge in school closure case by opposing consolidation before

The purpose of the OMA is to allow for
(1) public observation of decision making and
(2) public participation in public meetings and
decision making.



or



The purpose of the OMA is to allow for
(1) public observation of decision making and
(2) public participation in public meetings and
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*"The itsy bitsy spider went up the
water spout..."*

AS § 29.20.020

§ 29.20.020. Meetings public

(a) Meetings of all municipal bodies shall be public as provided in **AS 44.62.310**. The governing body shall provide reasonable opportunity for the public to be heard at regular and special meetings.

(b) This section applies to home rule and general law municipalities.

Credits
SLA 1985, ch. 74, § 7.

During a Board meeting, an executive session is held in which the Board votes on and gives direction to its negotiator on what direction the negotiations should take. A violation of the OMA has occurred.



or



During a Board meeting, an executive session is held in which the Board votes on and gives direction to its negotiator on what direction the negotiations should take. A violation of the OMA has occurred.



False

*“There are bigger things happening than me and you!”
- Spiderman to Harry Osborn*

AS § 44.62.310

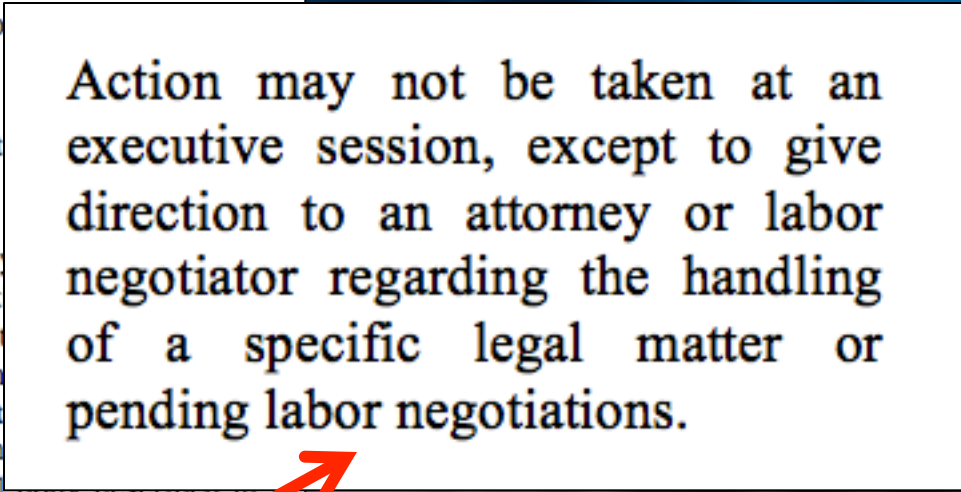
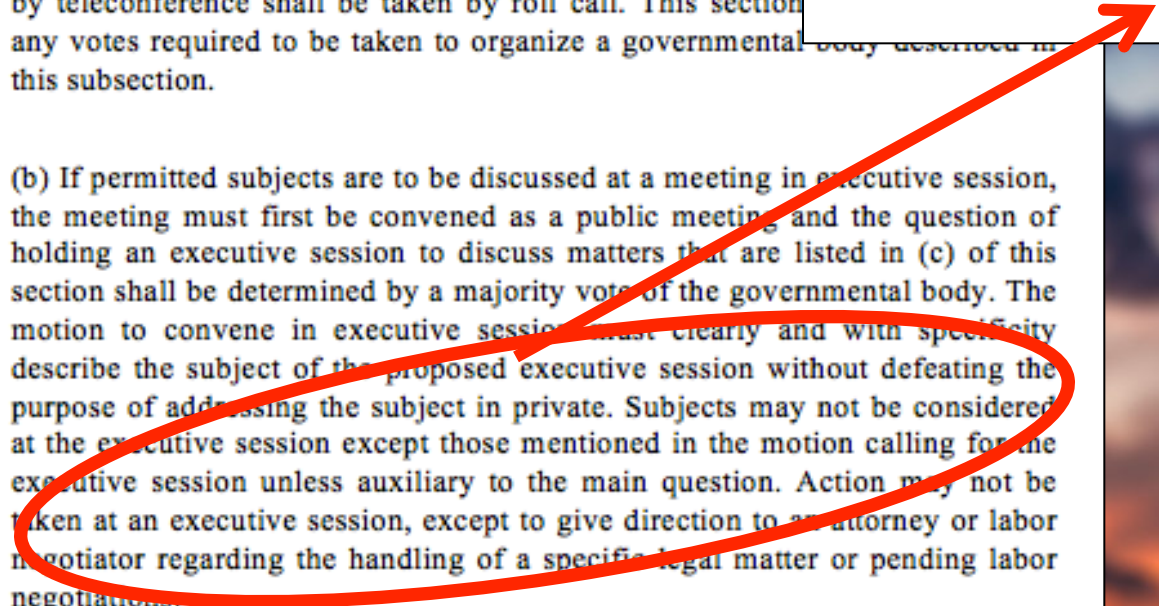
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(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

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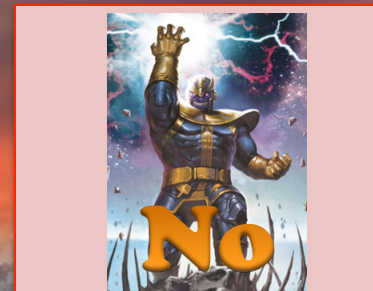


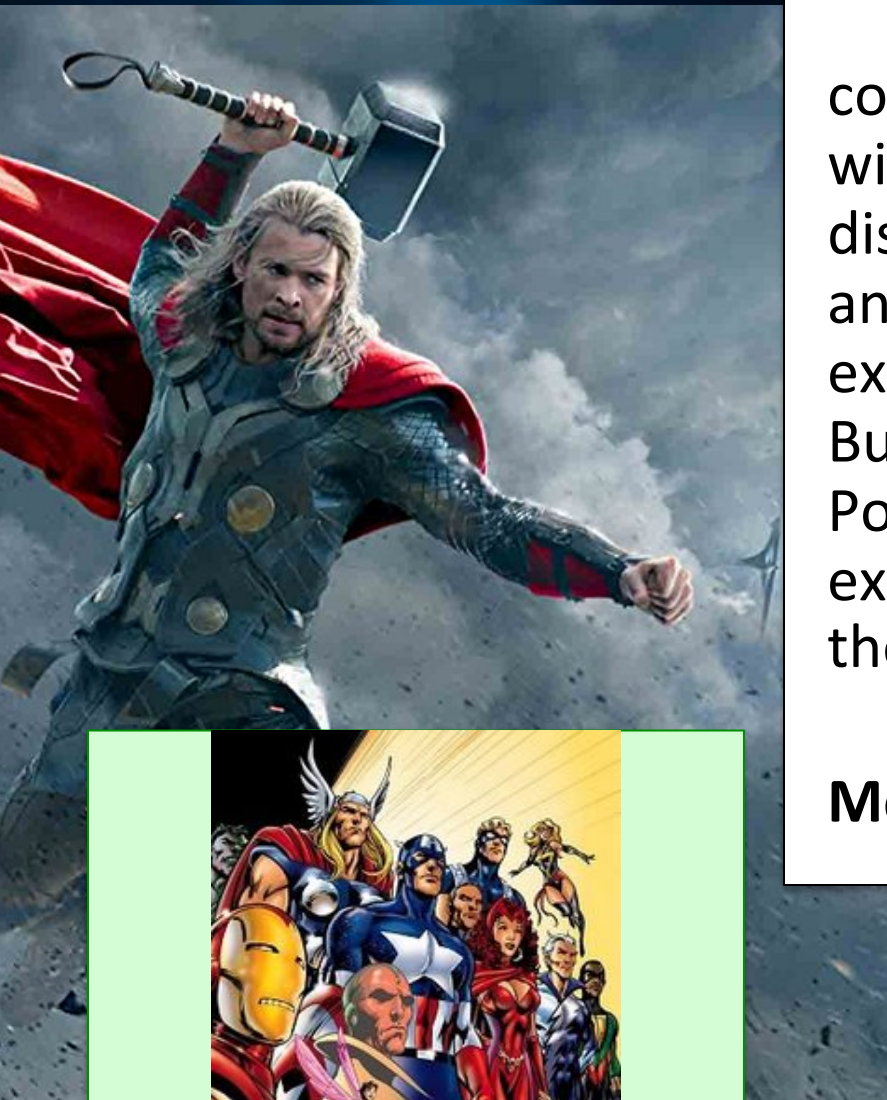
The time has come. The Board will consider a layoff of tenured staff. This will be a difficult and touchy discussion. It would be much easier and better for all involved if it were in executive session. Under “New Business: Personnel and Staffing, and Possible Layoffs” you move “to go into executive session.” The Board adopts the motion.

Has the Board violated the Open Meetings Act?



or





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Has the Board violated the Open Meetings Act?



AS § 44.62.310

§ 44.62.310. Government meetings

(b) If permitted subjects are to be discussed at a meeting session, the meeting must first be convened as a public session. The question of holding an executive session to discuss any subject listed in (c) of this section shall be determined by a majority vote of the members of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be discussed in the executive session except those mentioned in (c) for the executive session unless auxiliary to the main purpose. Action may not be taken at an executive session. No direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations

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- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public hearing;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government contracts, where law are not subject to public disclosure.

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;

(2) subjects that tend to prejudice the reputation and character of any person

(B) The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private.

Opinions

I've dedicated my life to teaching in Alaska. Here's why I'm leaving.

Author: Brinna Langford | Opinion Updated: 1 day ago Published 1 day ago



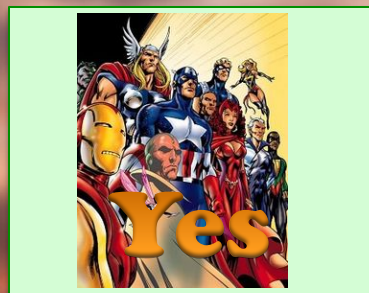
iStock / Getty Images

I recently read an opinion piece published in the Anchorage Daily News titled, "Alaska, I'm breaking up with you." and while the tone set by the author does not mirror what I see every day in my classroom and my community, I must admit I could relate, because I too, am leaving Alaska.

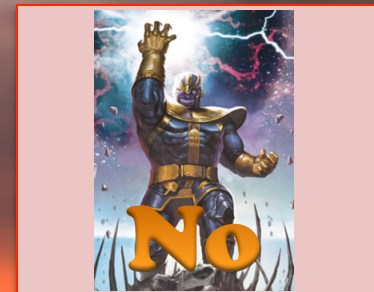
I've dedicated my adult life to teaching. I've spent six wonderful years working as a middle school education teacher in the Anchorage School District. I care deeply about the students I work with and the lives they will lead after they leave my classroom. I'm currently a

An employee who will for sure be part of any layoff requests to meet with the Board in executive session to explain “her side of the story.”

Does the employee have the right to tell her side of the story to the Board in the executive session?

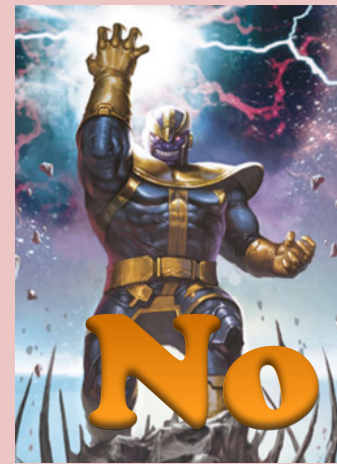


or



An employee who will for sure be part of any layoff requests to meet with the Board in executive session to explain “her side of the story.”

Does the employee have the right to tell her side of the story to the Board in the executive session?



AS § 44.62.310

§ 44.62.310. Government meetings public

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(d) This section does not apply to

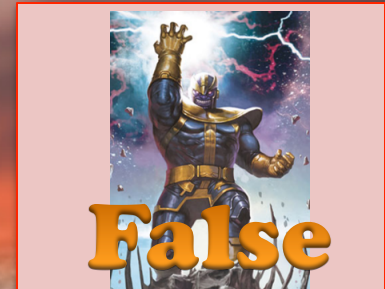
- (1) a governmental body performing a judicial function when holding a meeting solely to conduct an adjudicatory proceeding;
- (2) juries;
- (3) parole or pardon boards;
- (4) meetings of a hospital medical staff;
- (5) meetings of the governmental body of a hospital when holding a meeting solely to conduct an adjudicatory proceeding.

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

Don't forget ... negotiations are still on-going. 😊 You and a fellow Board member exchange emails on negotiation strategy and the Board decides to put that strategy to use. All is going well and according to plan...until the Superintendent calls to tell you that she just got a public records request that includes "all emails between board members regarding negotiations." You...gulp. The emails will have to be disclosed under the Public Records Act.



or



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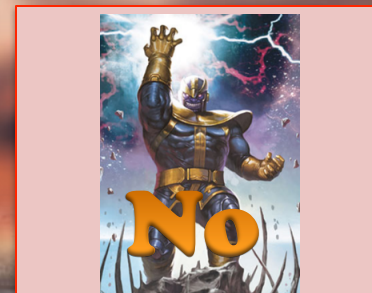


While you are in the executive session discussing negotiations, one of the Board members begins to discuss the terrible playground fire. Others agree and you all begin discussing whether or not the District should spend \$500,000 to improve the playground. When the public meeting reconvenes after the executive session, the next item under New Business is “Playground Fire Replacement.” The motion passes quickly with no debate.

Parents of the high school students are outraged. They claim the decision was in violation of the Open Meetings Act and threaten to sue. **Is there anything you can do?**



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AS § 44.62.310

§ 44.62.310. Government meetings public

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court determines that the action is void, the governmental body may hold another meeting held in compliance with this section. If the court holds that an action taken at a meeting is void only if the court determines that, under the circumstances, the public interest outweighs the harm that would be done to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

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(1) the expense that may be incurred by the public entity, other governmental bodies, and individuals if the action is voided;

(2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, or individuals if the action is voided;

(3) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action if the action is voided;

(4) the extent to which the governing body, in meetings held in compliance with this section, has acted on the subject;

(5) the amount of time that has passed since the action was taken;

(6) the degree to which the public entity, other governmental bodies, or individuals have relied on the action;

(7) whether and to what extent the governmental body has, before or after the lawsuit is filed, in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;

(8) the degree to which violations of this section were wilful, flagrant, or obvious;

(9) the degree to which the governing body failed to adhere to the policy under AS 44.62.312(a).

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both (2) the disruption that may be

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flagrant, or obvious; (9) the degree to which the governing body failed to

adhere to the policy under [AS 44.62.312\(a\)](#).

originally considered in violation of this section;

(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make



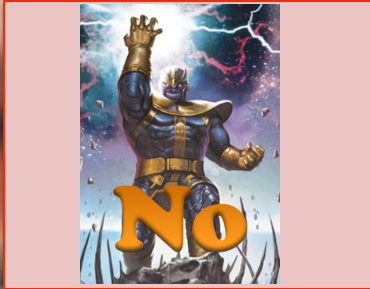
You are preparing for the next Board meeting. You see a proposed budget revision that will cut important equipment replacement at your neighborhood school.

You call and text the other Board Members one at a time and emphasize the importance of keeping this equipment replacement money in the budget. You are careful to dialogue with only one member at a time.

Have you violated the OMA?



or





"This is my chance to prove myself."
- Peter Parker

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Have you violated the OMA?



in this section,

(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or

(B) more than three members or a majority of the members, whichever is less, are present for the purpose of considering a matter upon which the governmental body is empowered to act, and the governmental body has only authority to advise or make recommendations to the public entity or to make decisions for the public entity;

(3) "public entity" means an entity of the state or of a political subdivision of the state, a public authority or corporation, a municipal commission, the University of Alaska, a public subdivision of the state, a public subdivision of the state, a public subdivision of the state, or a branch of state government.

Credits

SLA 1959, art VI, ch. 1, ch. 143, § 1; SLA 1966, ch. 48, § 1; SLA 1968, ch. 78, § 1; SLA 1972, ch. 100, § 2; SLA 1976, ch. 189, § 1; SLA 1985, ch. 54, §§ 2, 3; SLA 1994, ch. 69, §§ 2--8; SLA 2000, ch. 54, § 7. Amended by SLA 2009, ch. 48, § 7.

"meeting" means a gathering of members of a governmental body when:

More than three members, or a majority of the members [meet]

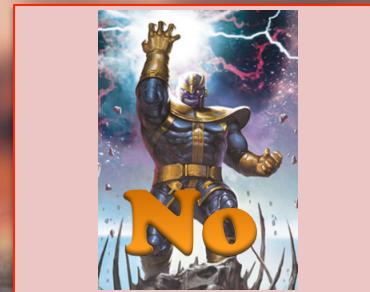
At a regularly-scheduled public Board meeting, your entire Board decides to attend AASB's annual convention next November.

On Thursday night, you and your fellow Board Members are eating dinner at Club Paris with 15 other School Board Members from around the state. A good time is had by all. A School Board Member from the Lake & Peninsula School District explains the ESSA transition plans to the table and how it will apply to Alaska. Other board members discuss the NAEP testing results and the challenges and opportunities it presents for Alaska. The discussion is lively and you all learn a lot.

Is this a violation of the open meetings act?



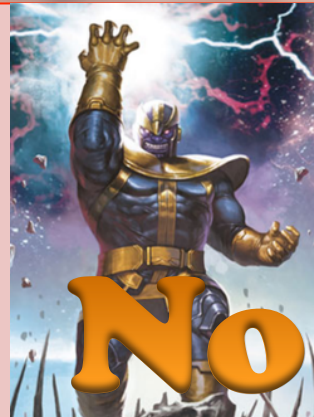
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AS § 44.62.310

§ 44.62.310. Government meetings public

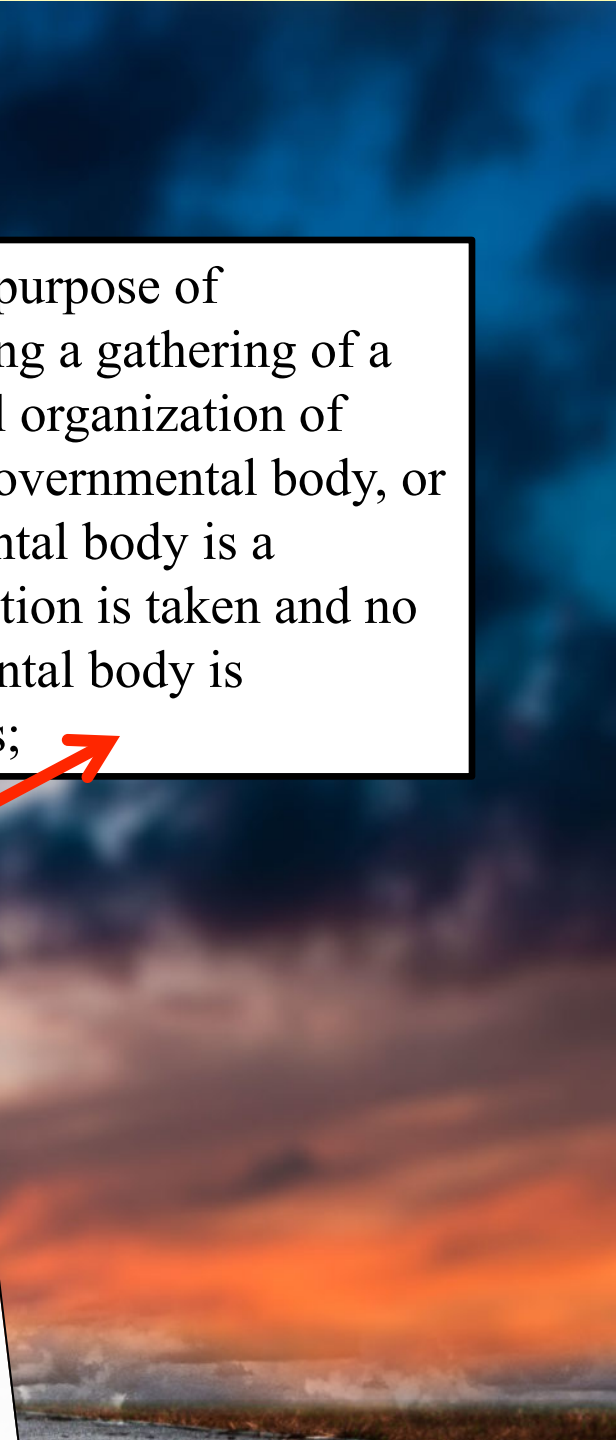
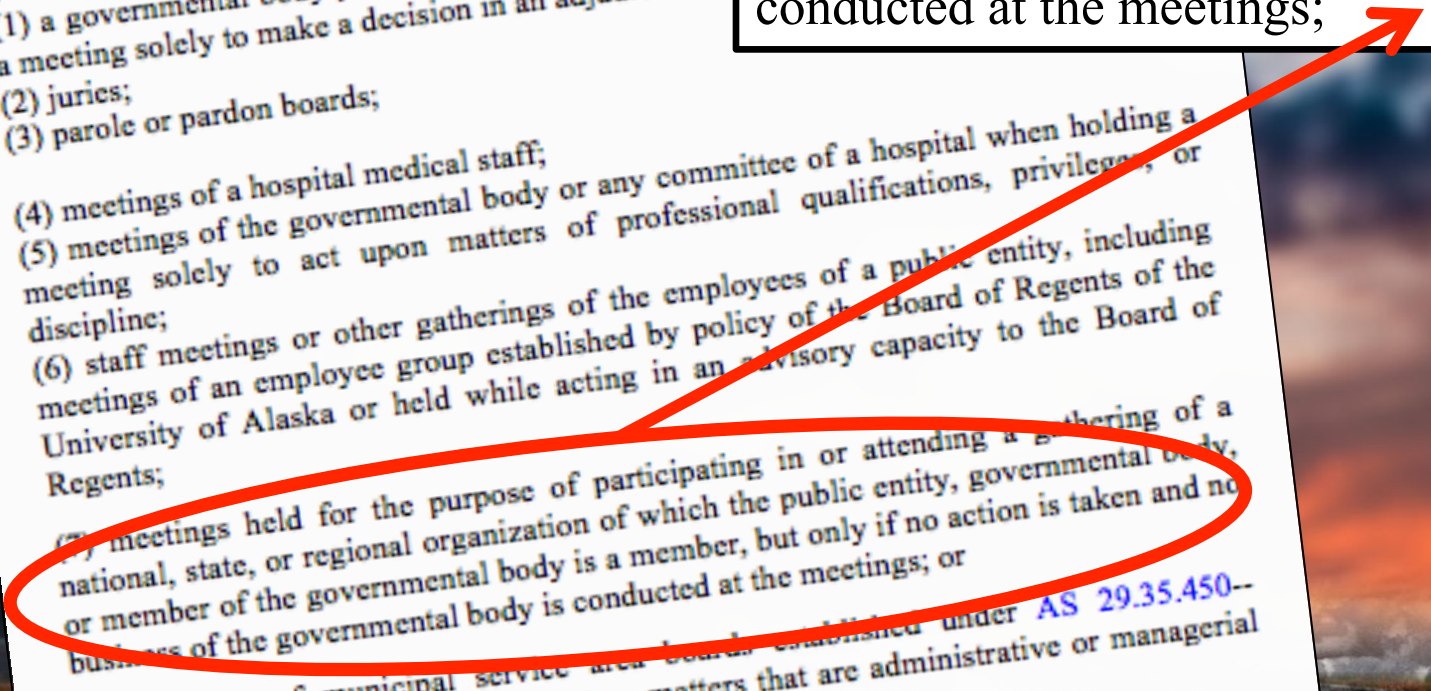
The following subjects may be considered in an executive session:
(1) matters, the immediate knowledge of which would be injurious to the finances of the public entity;
(2) subjects that tend to prejudice the reputation and character of a person who may request a public discussion;
(3) matters which by law, municipal charter, or ordinance are confidential;
(4) matters involving consideration of government records that require public disclosure.

This section does not apply to
(1) a governmental body performing a judicial or quasi-judicial function at a meeting solely to make a decision in an adjudicatory proceeding;
(2) juries;
(3) parole or pardon boards;

(4) meetings of a hospital medical staff;
(5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges, or discipline;
(6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents;

(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings; or
(8) meetings of municipal service area boards established under AS 29.35.450-- to act on matters that are administrative or managerial in nature.

(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings;



Conflict of Interests





“I have successfully privatized world peace...”
Tony Stark



Your preferred candidate for an exempt certified administrative job with the District has a better chance of being hired since you were elected to the Board.

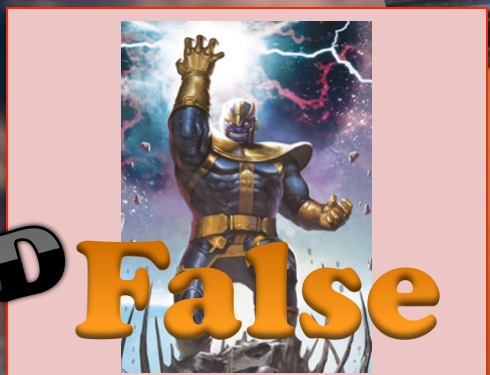


or



Your preferred candidate for an exempt certified administrative job with the District has a better chance of being hired since you were elected to the Board.

Both



True AND False



West's Alaska Statutes Annotated
Title 14. Education, Libraries, and Museums (Refs & Annos)
Chapter 14. Local Administration of Schools
Article 1. Operation of Districts

AS § 14.14.130

§ 14.14.130. Chief school administrator

Currentness

The Chief school administration shall select, appoint, and control employees “subject to the approval of the Board”

(a) A school board may select and employ a qualified person as a chief school administrator. In this subsection, “employ” includes employment by contract.

(b) If the district employs a chief school administrator, the administrator shall select, appoint, and otherwise control all school district employees that serve under the chief school administrator subject to the approval of the school board.

(c) If the district employs a chief school administrator, the administrator shall select, appoint, and otherwise control all school district employees that serve under the chief school administrator subject to the approval of the school board.

(d) This section does not prohibit two or more school districts from contracting for the services of a chief school administrator.

Credits

SLA 1966, ch. 98, § 1; SLA 1969, ch. 29, § 1; SLA 1990, ch. 136, §§ 3, 4; SLA 1998, ch. 83, §§ 19, 20, 21.

Notes of Decisions (2)

AS § 14.14.130, AK ST § 14.14.130
 Current with Chapters 2-17, 19-24, 27, 33, 42-43, 52-53 and 55 from the 2016 2nd Reg. Sess. of the 29th Legislature

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AS § 29.20.010

§ 29.20.010. Conflict of interest

(a) Each municipality shall adopt a conflict of interest ordinance that provides that

- (1) a member of the governing body shall declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter;
- (2) the presiding officer shall rule on a request by a member of the governing body to be excused from a vote;
- (3) the decision of the presiding officer on a request by a member of the governing body to be excused from a vote may be overridden by the majority vote of the governing body; and
- (4) a municipal employee or official, other than a member of the governing body, may not participate in an official action in which the employee or official has a substantial financial interest.

Municipal Clerk's Office
Amended and Approved
Date: 3/21/2017

Submitted by: Assembly Member Flynn, Assembly
Members Petersen, Croft, and Dunbar,
and Assembly Vice-Chair Traini
Prepared by: Municipal Board of Ethics
For reading: March 7, 2017

ANCHORAGE, ALASKA
AO No. 2017-42, As Amended

1 **AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY REPEALING AND**
2 **REENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 1.15, CODE OF ETHICS.**

3
4 **THE ANCHORAGE ASSEMBLY ORDAINS:**

5
6 **Section 1.** Anchorage Municipal Code Chapter 1.15, Code of Ethics, is hereby
7 repealed and reenacted. As required by AMC 1.05.050B, the current text of AMC Chapter
8 1.15 is attached.

9
10 **CHAPTER 1.15**
11 **CODE OF ETHICS**

- 12
13 **1.15.010 Title.**
14 **1.15.020 Purpose.**
15 **1.15.030 Scope.**
16 **1.15.040 Use of Municipal Resources.**
17 **1.15.050 Gifts.**
18 **1.15.060 Conflicts of Interest.**
19 **1.15.070 Elected Officials – Consultation, Representation, and**
20 **Appearance on Behalf of Private Interests on a Matter of**
21 **Municipal Government.**
22 **1.15.080 Charitable Nonprofit Board Member Services**
23 **1.15.090 Contemporaneous Employment or Service**
24 **1.15.100 Interest in Municipal Contract or Business with Municipality**
25 **1.15.110 Political Activity**
26 **1.15.120 Confidentiality and Use of Nonpublic Information**

1.15.060 Conflicts of Interest.

- A. Minor or Substantial Conflict of Interest: The assembly recognizes that in a representative democracy, the representatives are drawn from society and, therefore, have diverse interests and ethical obligations. In order to avoid conflicts of interest, the assembly shall establish rules to govern the conduct of its members.
- B. Public Interest: The assembly shall not place its interests above the public interest. The assembly shall place its interests in the public interest above its own interests.
- C. Definition of Participation: Participation in an official action includes any action that is taken by a public servant or a member of the public servant's immediate family that has a substantial financial or private interest in the matter.

D. A public servant shall not participate in any official action in which the public servant or a member of the public servant's immediate family has a substantial financial or private interest. Prior to participation in official action, the public servant shall disclose financial or private interests for determination of whether they are substantial.

1. Clerical or ministerial action on a matter. For purposes of this chapter, ministerial describes an act or duty that conforms to an instruction of prescribed procedure with limited or no use of judgment by the person performing the act or duty.
2. Action on a matter that does not substantially evaluate or impact the merits of the recommendation or decision.

D. General Rule – Conflict of Interest and Official Action: A public servant shall not participate in an official action in which the public servant or a member of the public servant's immediate family has a substantial financial or private interest in the matter.



- E. Substantial Financial or Private Interest: Whether the financial or private interest disclosed is substantial shall be determined on a case-by-case basis, with evaluation and balancing of these factors:
1. Whether the financial or private interest is a substantial part of the matter under consideration.
 2. Whether the financial or private interest directly and substantially varies with the outcome of the official action.
 3. Whether the financial or private interest is immediate and known or conjectural and dependent on factors beyond the official action.
 4. Whether the financial or private interest is significant monetarily.
 5. Whether the financial or private interest is of a type which is generally possessed by the public or a large class of persons to which the member belongs.
 6. Other factors deemed appropriate by the presiding official under the specifics of the disclosure and the nature of the action.

**“I’m not saying I’m Spiderman.
I’m just saying that no one has
ever seen me and Spiderman in a
room together.”**



- Peter Parker

