Requirements for Requesting an Advisory Opinion or Submitting an Inquiry

The Committee on Open Government is authorized to provide advice and non-binding legal opinions regarding the New York State open government statutes, including the Freedom of Information Law, Open Meetings Law, and Personal Privacy Protection Law. The Committee is not authorized to investigate complaints, hear administrative appeals, determine violations of law, or to compel an agency or public body to take any action. Only the courts, through the initiation of a Civil Practice Law and Rules Article 78 proceeding in state supreme court, have enforcement authority.

The day-to-day obligations of the Committee on Open Government are carried out by the staff of the Committee's Executive Director. The Executive Director is appointed by the Secretary of State in accordance with their role as secretariat for the Committee.

All inquiries are reviewed by the staff of the Executive Director of the Committee on Open Government. The Committee itself does not respond to inquiries.

Formal Open Government Advisory Opinions:

Due to the repetition of certain types of inquiry topics, it is not an efficient use of the resources of the staff of the Committee on Open Government to prepare a formal advisory opinion for each inquiry that relates to those topics. A formal advisory opinion will only be prepared when the facts of the inquiry are unique in some manner and, in the opinion of the Executive Director, the opinion will have precedential value. In all other cases, the staff of the Executive Director will respond to all written requests for guidance without preparing a formal advisory opinion. It is within the sole discretion of the staff of the Executive Director to determine the manner in which we will respond to your inquiry.

Open Government Inquiries:

As noted above, due to the repetition of certain types of inquiry topics, it is not an efficient use of our resources to prepare a formal advisory opinion for each inquiry that relates to those topics. In those instances, the staff of the Executive Director will respond to inquiries in the most efficient manner possible. This may involve providing you with one of our existing guidance documents or pointing you to one of our many existing advisory opinions. It is within the sole discretion of the staff of the Executive Director to determine the manner in which we will respond to your inquiry. Regardless of the form of the response, what you receive represents an advisory opinion from the staff of the Executive Director of the Committee on Open Government.

When submitting a request for an advisory opinion or any other inquiry, we respectfully request that you abide by the guidelines below:

- Do not ask the staff of Committee to make a finding whether a violation of law has occurred.
- Do not ask the staff of Committee to issue a finding of non-compliance or a "counseling memorandum" to an agency or public body.
- A request for an opinion must pose specific questions seeking an interpretation of one of the open government statutes in relation to a specific set of facts.
- The question(s) should be posed at the beginning of the inquiry. If you have more than one inquiry, please pose all the questions in one section at the beginning of the inquiry.
- Please set forth the facts relating to your request and pose your specific questions as **concisely** as possible.
- The Committee is not authorized by statute to advise upon issues not governed by the open government statutes.
- The staff of the Committee is not a court and a request for an opinion is not a judicial or quasi-judicial proceeding. Therefore, there is no need to make legal arguments in your inquiry or provide citations to legal authority which you believe supports your position.
- If there are relevant documents, such as your FOIL request, an agency response, or meeting minutes, please attach those records as PDF or image files. We cannot open links.
- Please refrain from making derogatory statements about any individual related to your inquiry.
- While artificial intelligence may be a useful tool to help formulate your request for an opinion, do not rely on information provided through the use of those tools without first checking the original source material.
- When appropriate, we will forward a copy of your request to the agency or public body involved and invite it's staff or officers to submit additional information. Issuance of the advisory opinion will not be delayed pending receipt of information from the agency or public body.
- Please remember that our opinions are non-binding. While we hope that they are educational and persuasive, no agency, public body, or individual is required to agree with opinions of the Committee. There is no appeal process if you disagree with an opinion.