



# Special Review: Open Meetings and Public Records

---

From the Office of the Internal Auditor

SR.FY16-01

---

At the request of the Board of Governors, the Office of the Internal Auditor (Internal Audit) has completed a special review of Open Meetings and Public Records practices and processes. The purpose of this review was to assess the College's compliance with legal requirements surrounding Open Meetings (for the meetings of the Board and its committees) and processes for responding to request for public records, and to review open meeting practices at other public bodies in Arizona to gauge best practices.

## BACKGROUND

The Arizona Open Meeting Law [Arizona Revised Statutes (A.R.S.) 38.431.09] applies to public bodies and provides that *"it is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided."* Open Meeting Law requirements also include:

- At least 24 hours advance notice of all meetings to the public body and to the general public including information identifying the public body and the date, time, and place of the meeting.
- The agenda for a public meeting must contain a listing of the *"specific matters to be discussed, considered or decided at the meeting."*
- Minutes must be taken of all public meetings and executive sessions.
- Minutes may be taken in writing or may be recorded by a tape recorder or video tape recorder.
- The minutes or a recording of a public meeting must be available for public inspection within three working days after the meeting.
- There are seven specific instances in which a public body may discuss matters in an executive session.
- An executive session may be convened solely for the purpose of discussing matters and, in limited instances, giving instructions to attorneys and designated representatives.
- The notice for an executive session must state the specific provision of law authorizing the executive session.
- No legal action may be taken in an executive session.

Arizona Public Records Laws (A.R.S. 39-101 to 161) seek *"to increase public access to government information and to make government agencies accountable to the public."* Unless a record is made confidential by statute, A.R.S. 39 indicates that, *"public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours."* Public bodies are required to respond "promptly" to a record request – promptness varies with the circumstances and includes time necessary to make redactions (if applicable). Public Records Laws also provide that:

- Records may not be inspected at times, or in ways, that disrupt public business.
- An officer or custodian of public records may refuse inspection of public records to protect the best interests of the State where *"inspection might lead to substantial and irreparable private or public harm."*
- When confidential and public information are commingled in a single document, a copy of the document may be made available for public inspection with the confidential material excised.
- The custodian may require the person requesting the public record to pay in advance for any copying and postage charges.
- If records are available on the web site, the public body or public officer may direct the requestor to obtain copies there.

## **SCOPE & PROCEDURES**

To assess the purposes noted above, Internal Audit:

- Reviewed Arizona Revised Statutes related to Open Meeting Laws and Public Records.
- Reviewed Office of the Arizona Attorney General Agency Handbook Chapter 6 (Public Records) and Chapter 7 (Open Meetings).
- Interviewed the Executive Director of Media, Community, and Government Relations to determine current practices and processes surrounding responding to public records requests.
- Consulted with the College's General Council to determine open meeting law and public records response practices and procedures.
- Reviewed the public records request tracking log for fiscal year 2016 (maintained by the Office of General Counsel).
- Reviewed Board of Governors meeting documents and related resources on the College's website from calendar year 2016.
- Reviewed the Finance and Audit Committee and the Human Resources Advisory Committee meeting documents and related resources on the College's website for fiscal year 2016.
- Researched open meeting law practices and processes at other public bodies within Arizona.

## **CONCLUSIONS & RECOMMENDATIONS**

We found that the College is in compliance with the provisions of the Open Meeting Laws as they pertain to regular Board of Governors Meetings and executive sessions. The depth of information available in the College's agendas and board packets (board meeting supporting documentation) generally exceeded other public bodies with the exception that other public bodies in the Tucson Community include a copy of the contracts to be voted on with their meeting support. The information in the board packet is complete and consistent with both the agenda and minutes. Executive session agendas consistently state the specific provision of law authorizing the executive session, and items discussed in executive session were included on the regular Board meeting agenda for vote as applicable.

The Finance and Audit Committee (FAC) and the Human Resources Advisory Committee (HRAC) are not fully compliant with the provision of the Open Meeting Laws as meeting minutes were not consistently posted to the College's web site, or not otherwise available to the public. In addition, the HRAC agendas are not sufficiently detailed as agendas include a non-descriptive "miscellaneous" category.

The College is generally compliant with the provisions of Public Records Laws. Only requests routed to the General Counsel's office (and logged on the tracking log) were reviewed. Records may have been requested directly from other departments that were not communicated for inclusion in the tracking log. As such, Internal Audit recommends the following to strengthen and clarify records request processes and procedures and help ensure requests are filled accurately and as timely as possible:

- One central point of contact for public records requests.
- The records request process is posted to the College's web site.
- A form is created and implemented to request records (use of the form is optional).
- As appropriate and applicable, update records request tracking log to include the reason for delay of filling requests.

Additional details and recommendations are included in the chart on page 3.

Review Area/Practice	Conclusion	Notes/Comment/ Recommendation
<b>OPEN MEETINGS</b>		
<b>➤ Agenda Descriptive</b>		
Pima – Board of Governors	Yes	
Pima – Finance and Audit Committee	Yes	
Pima – Human Resources Advisory Committee	No	Agendas include a non-descriptive “miscellaneous” category.
Tucson Community <sup>1</sup>	Yes	
Arizona Community Colleges <sup>2</sup>	8 of 10 - Yes	
<b>➤ Board Meeting Support - Descriptive and Complete</b>		
Pima – Board of Governors	Yes	
Tucson Community	Yes	The Tucson community includes a comprehensive description and the contract with the meeting support.
Arizona Community Colleges	3 of 10 – Yes 7 of 10 – Not Available	
<b>➤ Recording/Video</b>		
Pima – Board of Governors	Yes	
Tucson Community	Yes	
Arizona Community Colleges	3 of 10 - Yes	
<b>➤ Meeting Minutes – Available within 72 Hours</b>		
Pima College – Board of Governors	Yes	Recommend that Pima specifically add to the web site that Board minutes (meeting video) are available upon request.
Pima College – Finance and Audit Committee	No	Minutes from January 22, March 8, and April 8, 2016 not posted to the website.
Pima College – Human Resources Advisory Committee	No	Minutes from April 14, 2016 not posted to the website.
Tucson Community	Yes	
Arizona Community Colleges	Inconclusive	Minutes were not posted to the website within 72 hours; it is not clear if minutes are otherwise available upon request.
<b>➤ Contracts Available On-line (Tucson Community Only)</b>		
Pima College	No	
City of Tucson	Yes	
Pima County	Yes	
Tucson Unified School District	No	
University of Arizona	No	
<b>PUBLIC RECORDS</b>		
Compliance	Yes	Reviewed requests that are routed through General Counsel’s office.
Prompt	Yes, but can be improved.	Average time to fill a request is 21 days (not including bid award requests).

<sup>1</sup> City of Tucson, Pima County, Tucson Unified School District, and University of Arizona (Board of Regents)

<sup>2</sup> Arizona Western, Central Arizona, Cochise, Coconino, Diné, Eastern Arizona, Maricopa, Mohave, Northland Pioneer, and Yavapai Community Colleges