

New York Coalition



For Open Government, Inc.

Advocating for timely access to information & meaningful citizen participation

www.nyopengov.org

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Written Testimony of Paul Wolf, Esq.

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Submitted To:

Senate Finance Committee Chair Liz Krueger

Assembly Ways and Means Committee Chair Helene E. Weinstein

Regarding the need for budget funding to improve government transparency.

Thank you for holding this important hearing, my name is Paul Wolf. I am an attorney and serve as President of the New York Coalition For Open Government, a non-profit, non-partisan organization dedicated to addressing government transparency issues.

We Have An Open Government Crisis In New York State

When Kathleen Hochul became Governor, she promised a “new era of transparency”. In her recent State of the State address, Governor Hochul did not say one word about transparency. In the budget submitted to the legislature there is no new funding for transparency initiatives and no proposed transparency legislation.

There is an open government crisis in New York State that can be addressed through the state budget. The only entity measuring compliance with the Open Meetings Law and the Freedom of Information Law is the New York Coalition For Open Government. Over the past several years, every monitoring report we have done has documented large-scale non-compliance with open government laws.

For our reports, we randomly select 20 local government entities across every region of the state. Here are some examples of our findings:

2022

72% of towns not posting meeting documents online as required by law.

25% of towns not posting meeting minutes or recordings online as required by law.

39% of counties failed to acknowledge a FOIL request within five business days as required by law.

28% of counties never acknowledged our FOIL request.

65% of county board of elections did not respond to emails or telephone calls seeking information.

73% of election boards failed to acknowledge our FOIL request within five business days as required by law.

Took an average of 49 days just to receive meeting minutes from county Board of Elections

2021

75% of Planning Boards did not post meeting documents online

Only 25% of villages posted meeting minutes online, 35% of villages did not even post a meeting agenda

Out of the 158 school district executive session motions reviewed, 61% were not in compliance with the Open Meetings Law (96 out of 158).

70% of the school districts reviewed received a failing grade for how they handled executive session motions. 30% of school districts did not do any of their executive session motions correctly.

Additional funding is needed to address the lack of compliance with the Open Meetings Law and the Freedom of Information Law.

Increase Funding To The State Committee On Open Government

The NY State Committee on Open Government is a great resource for information but the Committee does not have any enforcement power and limited staff resources. The legislature can show its commitment to open government by providing more resources to the Committee. The state's lack of commitment to open government is clear when the resources provided to the Committee are compared to other organizations. The Committee has a staff of four state funded employees compared to the organizations listed below.

Inspector General's Office	92 Employees
Joint Commission on Public Ethics	50 Employees
Authorities Budget Office	11 Employees

Due to the lack of staff, the Committee does not have the ability to do any proactive monitoring of compliance with the law. As the legislature did with JCOPE, the Committee is in need of structural reform, which can be discussed at a different time.

Provide Technology Grants To Local Governments

During the pandemic, live streaming of meetings made it much easier for the public to attend and observe their local government meetings. Across the state, more people

watched meetings through live streaming then ever-attended meetings in person. Hybrid meetings (in person and virtual) should continue to be live streamed; with recordings posted online afterwards.

Many rural and smaller communities need assistance with internet and video technology so that they can live stream meetings effectively and efficiently. Software that assists local governments with posting meeting agendas, documents, minutes, and recordings may also be needed. Allocating funds for the training of local municipal officials is critically necessary.

State grants are made available to assist local governments with sewer, water, and economic development projects; but are not obtainable for transparency initiatives.

Funding For Attorney General Mediation Program

The Rhode Island and Massachusetts Attorney Generals have an open government unit that assists the public with addressing Freedom of Information and Open Meetings Law issues. In Florida, Illinois, and Kentucky the Attorney General has mediation programs to assist the public with Freedom of Information Law disputes. In Arizona, the Attorney General has created an Open Meetings Law Enforcement Team.

In New York, the so called “People’s Attorney” does not have anything available to assist the public with complaints regarding the Open Meetings Law and Freedom of Information Law.

Enforcement Powers Are Needed

No entity has the power to enforce New York’s Open Meetings Law. The only recourse a person has in NY is to hire an attorney.

In other states such as Massachusetts, the Attorney General has the authority to investigate and to fine government officials who violate the law. In Connecticut, they have an independent commission with power to address complaints and violations of the law. A restructured Committee on Open Government should be provided increased staffing and enforcement powers.

Hiring an attorney to litigate violations of open government laws is virtually impossible for most people. The legislature has the ability to address the open government crisis that exists in NY State, by providing budget funding and enforcement powers.