Public Officers Law
Articles 6 & 7

Article 6 – FREEDOM OF INFORMATION LAW

§ 84. Legislative declaration. The legislature hereby finds that a free society is maintained when government is responsive and responsible to the public, and when the public is aware of governmental actions. The more open a government is with its citizenry, the greater the understanding and participation of the public in government.

As state and local government services increase and public problems become more sophisticated and complex and therefore harder to solve, and with the resultant increase in revenues and expenditures, it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible.

The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.

The legislature therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article.

§ 85. Short title. This article shall be known and may be cited as the "Freedom of Information Law."

§ 86. Definitions. As used in this article, unless the context requires otherwise:

1. "Judiciary" means the courts of the state, including any municipal or district court, whether or not of record.

2. "State legislature" means the legislature of the state of New York, including any committee, subcommittee, joint committee, select committee, or commission thereof.

3. "Agency" means any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary

function for the state or any one or more municipalities thereof, except the judiciary or the state legislature.

4. "Record" means any information kept, held, filed, produced or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

5. "Critical infrastructure" means systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy.

6. "Law enforcement disciplinary records" means any record created in furtherance of a law enforcement disciplinary proceeding, including, but not limited to:

(a) the complaints, allegations, and charges against an employee;

(b) the name of the employee complained of or charged;

(c) the transcript of any disciplinary trial or hearing, including any exhibits introduced at such trial or hearing;

(d) the disposition of any disciplinary proceeding; and

(e) the final written opinion or memorandum supporting the disposition and discipline imposed including the agency's complete factual findings and its analysis of the conduct and appropriate discipline of the covered employee.

7. "Law enforcement disciplinary proceeding" means the commencement of any investigation and any subsequent hearing or disciplinary action conducted by a law enforcement agency.

8. "Law enforcement agency" means a police agency or department of the state or any political subdivision thereof, including authorities or agencies maintaining police forces of individuals defined as police officers in section 1.20 of the criminal procedure law, a sheriff's department, the department of

corrections and community supervision, a local department of correction, a local probation department, a fire department, or force of individuals employed as firefighters or firefighter/paramedics.

9. "Technical infraction" means a minor rule violation by a person employed by a law enforcement agency as defined in this section as a police officer, peace officer, or firefighter or firefighter/paramedic, solely related to the enforcement of administrative departmental rules that (a) do not involve interactions with members of the public, (b) are not of public concern, and (c) are not otherwise connected to such person's investigative, enforcement, training, supervision, or reporting responsibilities.

10. "Retiree" means a former officer or employee of an agency, the state legislature, or the judiciary who was a member of a public retirement system of the state, as such term is defined in subdivision twenty-three of section five hundred one of the retirement and social security law and is receiving, or entitled to receive, a benefit from such public retirement system.

11. "Beneficiary" means a person designated by a member or retiree of a public retirement system of the state to receive retirement or death benefits following the death of the member or retiree.

§ 87. Access to agency records. 1. (a) Within sixty days after the effective date of this article, the governing body of each public corporation shall promulgate uniform rules and regulations for all agencies in such public corporation pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article, pertaining to the administration of this article.

(b) Each agency shall promulgate rules and regulations, in conformity with this article and applicable rules and regulations promulgated pursuant to the provisions of paragraph (a) of this subdivision, and pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article, pertaining to the availability of records and procedures to be followed, including, but not limited to:

i. the times and places such records are available;

ii. the persons from whom such records may be obtained, and

iii. except when a different fee is otherwise prescribed by statute:

(1) the fees for paper copies of records shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record in accordance with the provisions of paragraph (c) of this subdivision.

(2) In the case where an identical record has been prepared for a previous request within the past 6 months and an electronic copy is available, an agency shall not charge a fee for the reproduction of such record, except for the actual cost of a storage device or media if one is provided to the requester in complying with such request.

(c) In determining the actual cost of reproducing a record, an agency may include only:

i. an amount equal to the hourly salary attributed to the lowest paid agency employee who has the necessary skill required to prepare a copy of the requested record;

ii. the actual cost of the storage devices or media provided to the person making the request in complying with such request;

iii. the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy; and

iv. preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of agency employee time is needed to prepare a copy of the record requested. A person requesting a record shall be informed of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if an outside professional service would be retained to prepare a copy of the record.

2. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except those records or portions thereof that may be withheld pursuant to the exceptions of rights of access appearing in this subdivision. A denial of access shall not be based solely on the category or type of such record and shall be valid only when there is a particularized and specific justification for such denial. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

(a) are specifically exempted from disclosure by state or federal statute;

(b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;

(c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;

(d) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise;

(e) are compiled for law enforcement purposes only to the extent that disclosure would:

i. interfere with law enforcement investigations or judicial proceedings, provided however, that any agency, which is not conducting the investigation that the requested records relate to, that is considering denying access pursuant to this subparagraph shall receive confirmation from the law enforcement or investigating agency conducting the investigation that disclosure of such records will interfere with an ongoing investigation;

ii. deprive a person of a right to a fair trial or impartial adjudication;

iii. identify a confidential source or disclose confidential information relating to a criminal investigation; or

iv. reveal criminal investigative techniques or procedures, except routine techniques and procedures;

(f) if disclosed could endanger the life or safety of any person;

(g) are inter-agency or intra-agency materials which are not:

i. statistical or factual tabulations or data;

ii. instructions to staff that affect the public;

iii. final agency policy or determinations;

iv. external audits, including but not limited to audits performed by the comptroller and the federal government; or

(h) are examination questions or answers which are requested prior to the final administration of such questions.

(i) if disclosed, would jeopardize the capacity of an agency or an entity that has shared information with an agency to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures; or

* (j) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law.

* NB Repealed December 1, 2027

* (k) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-b of the vehicle and traffic law.

* NB Repealed December 1, 2029

* (k) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-b of the vehicle and traffic law.

* NB Repealed December 1, 2029

* (l) are photographs, microphotographs, videotape or other recorded images produced by a bus lane photo device prepared under authority of section eleven hundred eleven-c of the vehicle and traffic law.

* NB Repealed July 1, 2028

* (m) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-b of the vehicle and traffic law.

* NB Repealed July 1, 2030

* (n) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-d of the vehicle and traffic law.

* NB Repealed December 1, 2029

* (o) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-e of the vehicle and traffic law.

* NB Repealed December 1, 2029

(p) are data or images produced by an electronic toll collection system under authority of article forty-four-C of the vehicle and traffic law and in title three of article three of the public authorities law.

* (q) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred seventy-four-a of the vehicle and traffic law.

* NB Repealed December 1, 2029

* (r) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-e of the vehicle and traffic law.

* NB There are 3 par (r)'s

* NB Repealed October 6, 2031

* (r) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-f of the vehicle and traffic law.

* NB There are 3 par (r)'s

* NB Repealed December 1, 2026

* (r) are photographs, microphotographs, videotape or other recorded images or information and data prepared under authority of section three hundred eighty-five-a of the vehicle and traffic law.

* NB There are 3 par (r)'s

* NB Repealed December 1, 2030

* (s) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-c-one of the vehicle and traffic law.

* NB There are 3 par (s)'s

* NB Repealed July 1, 2028

* (s) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-g of the vehicle and traffic law.

* NB There are 3 par (s)'s

* NB Repealed October 28, 2028

* (s) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eighty-f of the vehicle and traffic law.

* NB There are 3 par (s)'s

* NB Repealed December 31, 2028

* (t) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-f of the vehicle and traffic law.

* NB There are 2 par (t)'s

* NB Repealed December 31, 2028

* (t) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-g of the vehicle and traffic law.

* NB There are 2 par (t)'s

* NB Repealed December 1, 2027

* (u) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-g of the vehicle and traffic law.

* NB Repealed December 31, 2029

* NB There are 2 par (u)'s

* (u) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-h of the vehicle and traffic law.

* NB Repealed December 1, 2029

* NB There are 2 par (u)'s

* (v) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-i of the vehicle and traffic law.

* NB Repealed December 1, 2030

* NB There are 5 par (v)'s

* (v) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eighty-h of the vehicle and traffic law.

* NB Repealed December 1, 2031

* NB There are 5 par (v)'s

* (v) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-h of the vehicle and traffic law.

* NB Repealed December 31, 2030

* NB There are 5 par (v)'s

* (v) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred eighty-h of the vehicle and traffic law.

* NB Repealed December 31, 2030

* NB There are 5 par (v)'s

* (v) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-i of the vehicle and traffic law.

* NB Repealed December 31, 2030

* NB There are 5 par (v)'s

3. Each agency shall maintain:

(a) a record of the final vote of each member in every agency proceeding in which the member votes;

(b) a record setting forth the name, public office address, title and salary of every officer or employee of the agency; and

(c) a reasonably detailed current list by subject matter of all records in the possession of the agency, whether or not available under this article. Each agency shall update its subject matter list annually, and the date of the most recent update shall be conspicuously indicated on the list. Each state agency as defined in subdivision four of this section that maintains a website shall post its current list on its website and such posting shall be linked to the website of the committee on open government. Any such agency that does not maintain a website shall arrange to have its list posted on the website of the committee on open government.

4. (a) Each state agency which maintains records containing trade secrets, to which access may be denied pursuant to paragraph (d) of subdivision two of this section, shall promulgate regulations in conformity with the provisions of subdivision five of section eighty-nine of this article pertaining to such records, including, but not limited to the following:

(1) the manner of identifying the records or parts;

(2) the manner of identifying persons within the agency to whose custody the records or parts will be charged and for whose inspection and study the records will be made available; (3) the manner of safeguarding against any unauthorized access to the records.

(b) As used in this subdivision the term "agency" or "state agency" means only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor.

(c) Each state agency that maintains a website shall post information related to this article and article six-A of this chapter on its website. Such information shall include, at a minimum, contact information for the persons from whom records of the agency may be obtained, the times and places such records are available for inspection and copying, and information on how to request records in person, by mail, and, if the agency accepts requests for records electronically, by e-mail. This posting shall be linked to the website of the committee on open government.

4-a. A law enforcement agency responding to a request for law enforcement disciplinary records as defined in section eighty-six of this article shall redact any portion of such record containing the information specified in subdivision two-b of section eighty-nine of this article prior to disclosing such record under this article.

4-b. A law enforcement agency responding to a request for law enforcement disciplinary records, as defined in section eighty-six of this article, may redact any portion of such record containing the information specified in subdivision two-c of section eighty-nine of this article prior to disclosing such record under this article.

5. (a) An agency shall provide records on the medium requested by a person, if the agency can reasonably make such copy or have such copy made by engaging an outside professional service. Records provided in a computer format shall not be encrypted.

(b) No agency shall enter into or renew a contract for the creation or maintenance of records if such contract impairs the right of the public to inspect or copy the agency's records.

6. All agencies subject to the requirements of this article shall develop a policy regarding providing a notification to public employees in the event that the agency is responding to a request for such employee's disciplinary records.

§ 88. Access to state legislative records. 1. The temporary president of the senate and the speaker of the assembly shall promulgate rules and regulations for their respective houses in conformity with the provisions of this article, pertaining to the availability, location and nature of records, including, but not limited to:

(a) the times and places such records are available;

(b) the persons from whom such records may be obtained;

(c) the fees for copies of such records, which shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record, except when a different fee is otherwise prescribed by law.

2. The state legislature shall, in accordance with its published rules, make available for public inspection and copying:

(a) bills and amendments thereto, fiscal notes, introducers' bill memoranda, resolutions and amendments thereto, and index records;

(b) messages received from the governor or the other house of the legislature, and home rule messages;

(c) legislative notification of the proposed adoption of rules by an agency;

(d) transcripts or minutes, if prepared, and journal records of public sessions including meetings of committees and subcommittees and public hearings, with the records of attendance of members thereat and records of any votes taken;

(e) internal or external audits and statistical or factual tabulations of, or with respect to, material otherwise available for public inspection and copying pursuant to this section or any other applicable provision of law;

(f) administrative staff manuals and instructions to staff that affect members of the public;

(g) final reports and formal opinions submitted to the legislature;

(h) final reports or recommendations and minority or dissenting reports and opinions of members of committees, subcommittees, or commissions of the legislature;

(i) any other files, records, papers or documents required by law to be made available for public inspection and copying.

(j) external audits conducted pursuant to section ninety-two of the legislative law and schedules issued pursuant to subdivision two of section ninety of the legislative law.

3. Each house shall maintain and make available for public inspection and copying: (a) a record of votes of each member in every session and every committee and subcommittee meeting in which the member votes;

(b) a record setting forth the name, public office address, title, and salary of every officer or employee; and

(c) a current list, reasonably detailed, by subject matter of any records required to be made available for public inspection and copying pursuant to this section.

§ 89. General provisions relating to access to records; certain cases. The provisions of this section apply to access to all records, except as hereinafter specified:

1. (a) The committee on open government is continued and shall consist of the lieutenant governor or the delegate of such officer, the secretary of state or the delegate of such officer, whose office shall act as secretariat for the committee, the commissioner of the office of general services or the delegate of such officer, the director of the budget or the delegate of such officer, and seven other persons, none of whom shall hold any other state or local public office except the representative of local governments as set forth herein, to be appointed as follows: five by the governor, at least two of whom are or have been representatives of the news media, one of whom shall be a representative of local government who, at the time of appointment, is serving as a duly elected officer of a local government, one by the temporary president of the senate, and one by the speaker of the assembly. The persons appointed by the temporary president of the senate and the speaker of the assembly shall be appointed to serve, respectively, until the expiration of the terms of office of the temporary president and the speaker to which the temporary president and speaker were elected. The four persons presently serving by appointment of the governor for fixed terms shall continue to serve until the expiration of their respective terms. Thereafter, their respective successors shall be appointed for terms of four years. The member representing local government shall be appointed for a term of four years, so long as such member shall remain a duly elected officer of a local government. The committee shall hold no less than two meetings annually, but may meet at any time. The members of the committee shall be entitled to reimbursement for actual expenses incurred in the discharge of their duties.

(b) The committee shall:

i. furnish to any agency advisory guidelines, opinions or other appropriate information regarding this article;

ii. furnish to any person advisory opinions or other appropriate information regarding this article;

iii. promulgate rules and regulations with respect to the implementation of subdivision one and paragraph (c) of subdivision three of section eighty-seven of this article;

iv. request from any agency such assistance, services and information as will enable the committee to effectively carry out its powers and duties;

v. develop a form, which shall be made available on the internet, that may be used by the public to request a record; and

vi. report on its activities and findings regarding this article and article seven of this chapter, including recommendations for changes in the law, to the governor and the legislature annually, on or before December fifteenth.

2. (a) The committee on public access to records may promulgate guidelines regarding deletion of identifying details or withholding of records otherwise available under this article to prevent unwarranted invasions of personal privacy. In the absence of such guidelines, an agency may delete identifying details when it makes records available.

(b) An unwarranted invasion of personal privacy includes, but shall not be limited to:

i. disclosure of employment, medical or credit histories or personal references of applicants for employment;

ii. disclosure of items involving the medical or personal records of a client or patient in a medical facility;

iii. sale or release of lists of names and addresses if such lists would be used for solicitation or fund-raising purposes;

iv. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or maintaining it;

v. disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency;

vi. information of a personal nature contained in a workers' compensation record, except as provided by section one hundred ten-a of the workers' compensation law;

vii. disclosure of electronic contact information, such as an e-mail address or a social network username, that has been collected from a taxpayer under section one hundred four of the real property tax law; or

viii. disclosure of law enforcement arrest or booking photographs of an individual, unless public release of such photographs will serve a specific law enforcement purpose and disclosure is not precluded by any state or federal laws.

(c) Unless otherwise provided by this article, disclosure shall not be construed to constitute an unwarranted invasion of personal privacy pursuant to paragraphs (a) and (b) of this subdivision:

i. when identifying details are deleted;

ii. when the person to whom a record pertains consents in writing to disclosure;

iii. when upon presenting reasonable proof of identity, a person seeks access to records pertaining to him or her; or

iv. when a record or group of records relates to the right, title or interest in real property, or relates to the inventory, status or characteristics of real property, in which case disclosure and providing copies of such record or group of records shall not be deemed an unwarranted invasion of personal privacy, provided that nothing herein shall be construed to authorize the disclosure of electronic contact information, such as an e-mail address or a social network username, that has been collected from a taxpayer under section one hundred four of the real property tax law.

2-a. Nothing in this article shall permit disclosure which constitutes an unwarranted invasion of personal privacy as defined in subdivision two of this section if such disclosure is prohibited under section ninety-six of this chapter.

2-b. For records that constitute law enforcement disciplinary records as defined in subdivision six of section eighty-six of this article, a law enforcement agency shall redact the following information from such records prior to disclosing such records under this article:

(a) items involving the medical history of a person employed by a law enforcement agency as defined in section eighty-six of this article as a police

officer, peace officer, or firefighter or firefighter/paramedic, not including records obtained during the course of an agency's investigation of such person's misconduct that are relevant to the disposition of such investigation;

(b) the home addresses, personal telephone numbers, personal cell phone numbers, personal e-mail addresses of a person employed by a law enforcement agency as defined in section eighty-six of this article as a police officer, peace officer, or firefighter or firefighter/paramedic, or a family member of such a person, a complainant or any other person named in a law enforcement disciplinary record, except where required pursuant to article fourteen of the civil service law, or in accordance with subdivision four of section two hundred eight of the civil service law, or as otherwise required by law. This paragraph shall not prohibit other provisions of law regarding work-related, publicly available information such as title, salary, and dates of employment;

(c) any social security numbers; or

(d) disclosure of the use of an employee assistance program, mental health service, or substance abuse assistance service by a person employed by a law enforcement agency as defined in section eighty-six of this article as a police officer, peace officer, or firefighter or firefighter/paramedic, unless such use is mandated by a law enforcement disciplinary proceeding that may otherwise be disclosed pursuant to this article.

2-c. For records that constitute "law enforcement disciplinary records" as defined in subdivision six of section eighty-six of this article, a law enforcement agency may redact records pertaining to technical infractions as defined in subdivision nine of section eighty-six of this article prior to disclosing such records under this article.

3. (a) Each entity subject to the provisions of this article, within five business days of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with subdivision five of this section. An agency shall not deny a request on the basis that the request is voluminous or that locating or reviewing the requested records or providing the requested copies is burdensome because the agency lacks sufficient staffing or on any other basis if the agency may engage an outside professional service to provide copying, programming or other services required to provide the copy, the costs of which the agency may recover pursuant to paragraph (c) of subdivision one of

section eighty-seven of this article. An agency may require a person requesting lists of names and addresses to provide a written certification that such person will not use such lists of names and addresses for solicitation or fund-raising purposes and will not sell, give or otherwise make available such lists of names and addresses to any other person for the purpose of allowing that person to use such lists of names and addresses for solicitation or fund-raising purposes. If an agency determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the agency shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part. Upon payment of, or offer to pay, the fee prescribed therefor, the entity shall provide a copy of such record and certify to the correctness of such copy if so requested, or as the case may be, shall certify that it does not have possession of such record or that such record cannot be found after diligent search. Nothing in this article shall be construed to require any entity to prepare any record not possessed or maintained by such entity except the records specified in subdivision three of section eighty-seven and subdivision three of section eighty-eight of this article. When an agency has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, it shall be required to do so. When doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the agency shall be required to retrieve or extract such record or data electronically. Any programming necessary to retrieve a record maintained in a computer storage system and to transfer that record to the medium requested by a person or to allow the transferred record to be read or printed shall not be deemed to be the preparation or creation of a new record.

(b) All entities shall, provided such entity has reasonable means available, accept requests for records submitted in the form of electronic mail and shall respond to such requests by electronic mail, using forms, to the extent practicable, consistent with the form or forms developed by the committee on open government pursuant to subdivision one of this section and provided that the written requests do not seek a response in some other form.

(c) Each state agency, as defined in subdivision five of this section, that maintains a website shall ensure its website provides for the online submission of a request for records pursuant to this article.

4. (a) Except as provided in subdivision five of this section, any person denied access to a record may within thirty days appeal in writing such denial to the head, chief executive or governing body of the entity, or the person therefor designated by such head, chief executive, or governing body, who shall

within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought. In addition, each agency shall immediately forward to the committee on open government a copy of such appeal when received by the agency and the ensuing determination thereon. Failure by an agency to conform to the provisions of subdivision three of this section shall constitute a denial.

(b) Except as provided in subdivision five of this section, a person denied access to a record in an appeal determination under the provisions of paragraph (a) of this subdivision may bring a proceeding for review of such denial pursuant to article seventy-eight of the civil practice law and rules. In the event that access to any record is denied pursuant to the provisions of subdivision two of section eighty-seven of this article, the agency involved shall have the burden of proving that such record falls within the provisions of such subdivision two. Failure by an agency to conform to the provisions of paragraph (a) of this subdivision shall constitute a denial.

(c) The court in such a proceeding: (i) may assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed, and when the agency failed to respond to a request or appeal within the statutory time; and (ii) shall assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed and the court finds that the agency had no reasonable basis for denying access.

(d) (i) Appeal to the appellate division of the supreme court must be made in accordance with subdivision (a) of section fifty-five hundred thirteen of the civil practice law and rules.

(ii) An appeal from an agency taken from an order of the court requiring disclosure of any or all records sought:

(A) shall be given preference;

(B) shall be brought on for argument on such terms and conditions as the presiding justice may direct, upon application of any party to the proceeding; and

(C) shall be deemed abandoned if the agency fails to serve and file a record and brief within sixty days after the date of service upon the petitioner

of the notice of appeal, unless consent to further extension is given by all parties, or unless further extension is granted by the court upon such terms as may be just and upon good cause shown.

5. (a) (1) A person acting pursuant to law or regulation who, subsequent to the effective date of this subdivision, submits any information to any state agency may, at the time of submission, request that the agency except such information from disclosure under paragraph (d) of subdivision two of section eighty-seven of this article. Where the request itself contains information which if disclosed would defeat the purpose for which the exception is sought, such information shall also be excepted from disclosure.

(1-a) A person or entity who submits or otherwise makes available any records to any agency, may, at any time, identify those records or portions thereof that may contain critical infrastructure information, and request that the agency that maintains such records except such information from disclosure under subdivision two of section eighty-seven of this article. Where the request itself contains information which if disclosed would defeat the purpose for which the exception is sought, such information shall also be excepted from disclosure.

(2) The request for an exception shall be in writing and state the reasons why the information should be excepted from disclosure.

(3) Information submitted as provided in subparagraphs one and one-a of this paragraph shall be excepted from disclosure and be maintained apart by the agency from all other records until fifteen days after the entitlement to such exception has been finally determined or such further time as ordered by a court of competent jurisdiction.

(b) On the initiative of the agency at any time, or upon the request of any person for a record excepted from disclosure pursuant to this subdivision, the agency shall:

(1) inform the person who requested the exception of the agency's intention to determine whether such exception should be granted or continued;

(2) permit the person who requested the exception, within ten business days of receipt of notification from the agency, to submit a written statement of the necessity for the granting or continuation of such exception;

(3) within seven business days of receipt of such written statement, or within seven business days of the expiration of the period prescribed for submission of such statement, issue a written determination granting, continuing or terminating such exception and stating the reasons therefor; copies of such determination shall be served upon the person, if any, requesting the record, the person who requested the exception, and the committee on public access to records.

(c) A denial of an exception from disclosure under paragraph (b) of this subdivision may be appealed by the person submitting the information and a denial of access to the record may be appealed by the person requesting the record in accordance with this subdivision:

(1) Within seven business days of receipt of written notice denying the request, the person may file a written appeal from the determination of the agency with the head of the agency, the chief executive officer or governing body or their designated representatives.

(2) The appeal shall be determined within ten business days of the receipt of the appeal. Written notice of the determination shall be served upon the person, if any, requesting the record, the person who requested the exception and the committee on public access to records. The notice shall contain a statement of the reasons for the determination.

(d) (i) A proceeding to review an adverse determination pursuant to paragraph (c) of this subdivision may be commenced pursuant to article seventy-eight of the civil practice law and rules. Such proceeding, when brought by a person seeking an exception from disclosure pursuant to this subdivision, must be commenced within fifteen days of the service of the written notice containing the adverse determination provided for in subparagraph two of paragraph (c) of this subdivision. The proceeding shall be given preference and shall be brought on for argument on such terms and conditions as the presiding justice may direct, not to exceed forty-five days.

(ii) Appeal to the appellate division of the supreme court must be made in accordance with subdivision (a) of section fifty-five hundred thirteen of the civil practice law and rules.

(iii) An appeal taken from an order of the court requiring disclosure:

(A) shall be given preference; and

(B) shall be brought on for argument on such terms and conditions as the presiding justice may direct, upon application by any party to the proceeding; and

(C) shall be deemed abandoned when the party requesting an exclusion from disclosure fails to serve and file a record and brief within sixty days after the date of the notice of appeal, unless consent of further extension is given by all parties, or unless further extension is granted by the court upon such terms as may be just and upon good cause shown.

(e) The person requesting an exception from disclosure pursuant to this subdivision shall in all proceedings have the burden of proving entitlement to the exception.

(f) Where the agency denies access to a record pursuant to paragraph (d) of subdivision two of section eighty-seven of this article, the agency shall have the burden of proving that the record falls within the provisions of such exception.

(g) Nothing in this subdivision shall be construed to deny any person access, pursuant to the remaining provisions of this article, to any record or part excepted from disclosure upon the express written consent of the person who had requested the exception.

(h) As used in this subdivision the term "agency" or "state agency" means only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor.

6. Nothing in this article shall be construed to limit or abridge any otherwise available right of access at law or in equity of any party to records. A denial of access to records or to portions thereof pursuant to this article shall not limit or abridge any party's right of access to such records pursuant to the civil practice law and rules, the criminal procedure law, or any other law.

7. Nothing in this article shall require the disclosure of the home address of an officer or employee, former officer or employee, or of a retiree of a public retirement system of the state, as such term is defined in subdivision twenty-three of section five hundred one of the retirement and social security law; nor shall anything in this article require the disclosure of the name or home address of a beneficiary of a public retirement system of the state, as such term is defined in subdivision twenty-three of section five hundred one of the retirement and social security law, or of an applicant for

appointment to public employment; provided however, that nothing in this subdivision shall limit or abridge the right of an employee organization, certified or recognized for any collective negotiating unit of an employer pursuant to article fourteen of the civil service law, to obtain the name or home address of any officer, employee or retiree of such employer, if such name or home address is otherwise available under this article.

8. Any person who, with intent to prevent the public inspection of a record pursuant to this article, willfully conceals or destroys any such record shall be guilty of a violation.

9. When records maintained electronically include items of information that would be available under this article, as well as items of information that may be withheld, an agency in designing its information retrieval methods, whenever practicable and reasonable, shall do so in a manner that permits the segregation and retrieval of available items in order to provide maximum public access.

10. Nothing in this article shall be construed to limit a person or entity that is a party to any civil or criminal action or proceeding from gaining access to records pursuant to this article relating to such action or proceeding, provided, however, that nothing in this subdivision shall prevent the denial of access to such records or portions thereof after providing particularized and specific justification that such records may be withheld pursuant to this article.

§ 90. Severability. If any provision of this article or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the article or the application thereof to other persons and circumstances.

Article 7 – OPEN MEETINGS LAW

§ 100. Legislative declaration. It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonweal will prosper and enable the governmental process to operate for the benefit of those who created it.

§ 101. Short title. This article shall be known and may be cited as "Open Meetings Law".

§ 102. Definitions. As used in this article: 1. "Meeting" means the official convening of a public body for the purpose of conducting public business, including the use of videoconferencing for attendance and participation by the members of the public body.

2. "Public body" means any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the general construction law, or committee or subcommittee or other similar body consisting of members of such public body, or an entity created or appointed to perform a necessary function in the decision-making process for which a quorum is required in order to conduct public business and which consists of two or more members. A necessary function in the decision-making process shall not include the provision of recommendations or guidance which is purely advisory and which does not require further action by the state or agency or department thereof or public corporation as defined in section sixty-six of the general construction law.

3. "Executive session" means that portion of a meeting not open to the general public.

§ 103. Open meetings and executive sessions. (a) Every meeting of a public body shall be open to the general public, except that an executive session of such body may be called and business transacted thereat in accordance with section ninety-five of this article.

(b) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.

* (c) A public body shall provide an opportunity for the public to attend, listen and observe meetings in at least one physical location at which a member participates.

* NB Effective until July 1, 2026

* (c) A public body that uses videoconferencing to conduct its meetings shall

provide an opportunity for the public to attend, listen and observe at any site at which a member participates.

* NB Effective July 1, 2026

* (d) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings.

* NB There are 2 sub (d)'s

* (d) 1. Any meeting of a public body that is open to the public shall be open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means. As used herein the term "broadcast" shall also include the transmission of signals by cable.

2. A public body may adopt rules, consistent with recommendations from the committee on open government, reasonably governing the location of equipment and personnel used to photograph, broadcast, webcast, or otherwise record a meeting so as to conduct its proceedings in an orderly manner. Such rules shall be conspicuously posted during meetings and written copies shall be provided upon request to those in attendance.

* NB There are 2 sub (d)'s

(e) Agency records available to the public pursuant to article six of this chapter, as well as any proposed resolution, law, rule, regulation, policy or any amendment thereto, that is scheduled to be the subject of discussion by a public body during an open meeting shall be made available, upon request therefor, to the extent practicable at least twenty-four hours prior to the meeting during which the records will be discussed. Copies of such records may be made available for a reasonable fee, determined in the same manner as provided therefor in article six of this chapter. If the agency in which a public body functions maintains a regularly and routinely updated website and utilizes a high speed internet connection, such records shall be posted on the website to the extent practicable at least twenty-four hours prior to the meeting. An agency may, but shall not be required to, expend additional moneys to implement the provisions of this subdivision.

(f) Open meetings of an agency or authority shall be, to the extent practicable and within available funds, broadcast to the public and maintained as records of the agency or authority. If the agency or authority maintains a

website and utilizes a high speed internet connection, such open meeting shall be, to the extent practicable and within available funds, streamed on such website in real-time, and posted on such website within and for a reasonable time after the meeting. For the purposes of this subdivision, the term "agency" shall mean only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor. For purposes of this subdivision, the term "authority" shall mean a public authority or public benefit corporation created by or existing under any state law, at least one of whose members is appointed by the governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

* § 103-a. Videoconferencing by public bodies. 1. For the purposes of this section, "local public body" shall mean a public corporation as defined in section sixty-six of the general construction law, a political subdivision as defined in section one hundred of the general municipal law or a committee or subcommittee or other similar body of such entity, or any entity for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for an entity limited in the execution of its official functions to a portion only of the state, or a political subdivision of the state, or for an agency or department thereof. For the purposes of this section, a public body shall be as defined in subdivision two of section one hundred two of this article.

2. A public body may, in its discretion, use videoconferencing to conduct its meetings pursuant to the requirements of this article provided that a minimum number of members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend and the following criteria are met:

(a) the governing board of a county, city, town or village has adopted a local law, or a public body has adopted a resolution, or the senate and assembly have adopted a joint resolution, following a public hearing, authorizing the use of videoconferencing:

(i) for itself and its committees or subcommittees; or,

(ii) specifying that each committee or subcommittee may make its own determination;

(iii) provided however, each community board in a city with a population of one million or more shall make its own determination;

(b) the public body has established written procedures governing member and public attendance consistent with this section, and such written procedures shall be conspicuously posted on the public website of the public body;

(c) members of the public body shall be physically present at any such meeting unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances, as set forth in the resolution and written procedures adopted pursuant to paragraphs (a) and (b) of this subdivision, including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting. Notwithstanding the in person quorum requirements set forth in this subdivision, the public body may determine, through its written procedures governing member and public attendance established pursuant to and consistent with this section, to allow for any member who has a disability as defined in section two hundred ninety-two of the executive law, where such disability renders such member unable to participate in-person at any such meeting location where the public can attend, to be considered present for purposes of fulfilling the quorum requirements for such public body at any meetings conducted through videoconferencing pursuant to this section, provided, however, that the remaining criteria set forth in this subdivision are otherwise met; and provided, further, that the public body maintains at least one physical location where the public can attend such meeting;

(d) except in the case of executive sessions conducted pursuant to section one hundred five of this article, the public body shall ensure that members of the public body can be heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon;

(e) the minutes of the meetings involving videoconferencing shall include which, if any, members participated remotely and shall be available to the public pursuant to section one hundred six of this article;

(f) if videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, where the public can view and/or participate in such meeting, where required documents and records will be posted or available, and identify the physical location for the meeting where the public can attend;

(g) the public body shall provide that each meeting conducted using videoconferencing shall be recorded and such recordings posted or linked on the public website of the public body within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request;

(h) if videoconferencing is used to conduct a meeting, the public body shall provide the opportunity for members of the public to view such meeting via video, and to participate in proceedings via videoconference in real time where public comment or participation is authorized and shall ensure that videoconferencing authorizes the same public participation or testimony as in person participation or testimony; and

(i) a local public body electing to utilize videoconferencing to conduct its meetings must maintain an official website.

3. The in person participation requirements of paragraph (c) of subdivision two of this section shall not apply during a state disaster emergency declared by the governor pursuant to section twenty-eight of the executive law, or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to section twenty-four of the executive law, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in person meeting.

4. No later than January first, two thousand twenty-four, the committee on open government, created by paragraph (a) of subdivision one of section eighty-nine of this chapter, shall issue a report to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on local government, the chair of the senate standing committee on investigations and government operations, the chair of the assembly standing committee on local governments, and the chair of the assembly standing committee on governmental operations concerning the application and implementation of such law and any further recommendations governing the use of videoconferencing by public bodies to conduct meetings pursuant to this section.

5. Open meetings of any public body that are broadcast or that use videoconferencing shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this section, "disability" shall have the meaning defined in section two hundred ninety-two of the executive law.

* NB Repealed July 1, 2026

§ 104. Public notice. 1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given or electronically transmitted to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.

2. Public notice of the time and place of every other meeting shall be given or electronically transmitted, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.

3. The public notice provided for by this section shall not be construed to require publication as a legal notice.

4. If videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.

5. If a meeting will be streamed live over the internet, the public notice for the meeting shall inform the public of the internet address of the website streaming such meeting.

6. When a public body has the ability to do so, notice of the time and place of a meeting given in accordance with subdivision one or two of this section, shall also be conspicuously posted on the public body's internet website.

§ 105. Conduct of executive sessions. 1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:

a. matters which will imperil the public safety if disclosed;

b. any matter which may disclose the identity of a law enforcement agent or informer;

c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;

d. discussions regarding proposed, pending or current litigation;

e. collective negotiations pursuant to article fourteen of the civil service law;

f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;

g. the preparation, grading or administration of examinations; and

h. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

2. Attendance at an executive session shall be permitted to any member of the public body and any other persons authorized by the public body.

§ 106. Minutes. 1. Minutes shall be taken at all open meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

2. Minutes shall be taken at executive sessions of any action that is taken by formal vote which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary need not include any matter which is not required to be made public by the freedom of information law as added by article six of this chapter.

3. Minutes of meetings of all public bodies shall be available to the public in accordance with the provisions of the freedom of information law within two weeks from the date of such meeting except that minutes taken pursuant to subdivision two of this section shall be available to the public within one week from the date of the executive session. If the agency in which a public body functions maintains a regularly and routinely updated website and utilizes a high speed internet connection, such minutes shall be posted on the website within two weeks from the date of such meeting except that minutes taken pursuant to subdivision two of this section shall be available to the public within one week from the date of the executive session. For purposes of this subdivision unabridged video recordings or unabridged audio recordings or unabridged written transcripts may be deemed to be meeting minutes. Nothing in this section shall require the creation of minutes if the public body would not otherwise take them.

§ 107. Enforcement. 1. Any aggrieved person shall have standing to enforce the provisions of this article against a public body by the commencement of a proceeding pursuant to article seventy-eight of the civil practice law and rules, or an action for declaratory judgment and injunctive relief. In any such action

or proceeding, if a court determines that a public body failed to comply with this article, the court shall have the power, in its discretion, upon good cause shown, to declare that the public body violated this article and/or declare the action taken in relation to such violation void, in whole or in part, without prejudice to reconsideration in compliance with this article. If the court determines that a public body has violated this article, the court may require the members of the public body to participate in a training session concerning the obligations imposed by this article conducted by the staff of the committee on open government.

An unintentional failure to fully comply with the notice provisions required by this article shall not alone be grounds for invalidating any action taken at a meeting of a public body. The provisions of this article shall not affect the validity of the authorization, acquisition, execution or disposition of a bond issue or notes.

2. In any proceeding brought pursuant to this section, costs and reasonable attorney fees may be awarded by the court, in its discretion, to the successful party. If a court determines that a vote was taken in material violation of this article, or that substantial deliberations relating thereto occurred in private prior to such vote, the court shall award costs and reasonable attorney's fees to the successful petitioner, unless there was a reasonable basis for a public body to believe that a closed session could properly have been held.

3. The statute of limitations in an article seventy-eight proceeding with respect to an action taken at executive session shall commence to run from the date the minutes of such executive session have been made available to the public.

§ 108. Exemptions. Nothing contained in this article shall be construed as extending the provisions hereof to:

1. judicial or quasi-judicial proceedings, except proceedings of the public service commission and zoning boards of appeals;

2. a. deliberations of political committees, conferences and caucuses.

b. for purposes of this section, the deliberations of political committees, conferences and caucuses means a private meeting of members of the senate or assembly of the state of New York, or of the legislative body of a county, city, town or village, who are members or adherents of the same political party, without regard to (i) the subject matter under discussion, including discussions of public business, (ii) the majority or minority status of such political committees, conferences and caucuses or (iii) whether such political committees,

conferences and caucuses invite staff or guests to participate in their deliberations; and

3. any matter made confidential by federal or state law.

§ 109. Committee on open government. The committee on open government, created by paragraph (a) of subdivision one of section eighty-nine of this chapter, shall issue advisory opinions from time to time as, in its discretion, may be required to inform public bodies and persons of the interpretations of the provisions of the open meetings law.

§ 110. Construction with other laws. 1. Any provision of a charter, administrative code, local law, ordinance, or rule or regulation affecting a public body which is more restrictive with respect to public access than this article shall be deemed superseded hereby to the extent that such provision is more restrictive than this article.

2. Any provision of general, special or local law or charter, administrative code, ordinance, or rule or regulation less restrictive with respect to public access than this article shall not be deemed superseded hereby.

3. Notwithstanding any provision of this article to the contrary, a public body may adopt provisions less restrictive with respect to public access than this article.

§ 111. Severability. If any provision of this article or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the article or the application thereof to other persons and circumstances.