



**Are University of Minnesota Committees
Subject to the Open Meeting Law?**

By William B. Gleason

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During the past few months the Faculty Consultative Committee (FCC) at the University of Minnesota has met in secret. This was done twice during meetings at which members of the administration of the University of Minnesota were present.

Upon asking for justification for this action, I received a response from the chair of the committee attempting to justify these secret meetings. They are presented below along with my response.

- 1. The Open Meeting Law (Chapter 13D of the Minnesota Statutes) does not apply to advisory committees.*

It is true that the scope of paragraph (b) of Minn. Stat. 13D.01 subd. 1 is limited to meetings of the governing body of a public body. However, paragraph (c) requires that meetings of ANY COMMITTEE of a public body must be open to the public. Unlike paragraph (b), paragraph (c) does not limit its scope to a "governing" committee.

2. *The bylaws of the University Senate authorize closed meetings of committees of the Senate.*

In the Star Tribune case, the Minnesota Supreme Court rejected the argument of the Regents that the Open Meeting Law does not apply to the university. Neither the Regents nor the University Senate can override the statute. So the only closed meetings that may lawfully be held are those that are authorized by the statute. None of the topics discussed at the April 15 meeting of the FCC is of a nature that may be discussed in secret.

3. *It is necessary to hold closed meetings in order to have an effective and candid exchange of information between the administration and the FCC.*

So the administration will sometimes provide accurate and truthful information only in closed meetings? What kind of administration is that? What of the duty of the FCC "to report on matters that should be brought to the attention of the University at large?" See Article II, section 5, part I of the Senate bylaws. The FCC is supposed to be the representative of the faculty, not a co-conspirator with the administration in conducting the business of the university in secret!

In the Star Tribune case the Minnesota Supreme Court rejected this rationale for evading the Open Meeting Law:

"The purpose of [the state constitutional provision] empowering the Regents with the management of the University was to put academic and university management issues in the hands of the Regents. The Data Practices Act and the Open Meeting Law do not tread on those types of issues. These statutes address broader concerns of the relationship and information-flow between public institutions and the people whom they serve.

"The Data Practices Act and the Open Meeting Law are intended to

promote the general welfare by making government information accessible to the people. Both statutes are applicable to the University." -- Star Tribune Co. v. University of Minnesota Board of Regents, 683 N.W.2d at 284-285, 286 (Minn. 2004)

These are perilous times at the University of Minnesota. It is necessary for the faculty, staff, and students to have knowledge of important issues at the university. It is also necessary to have such information available to the Legislature and the citizens so that they may make informed decisions about appropriate levels of funding for the university.

President Robert Bruininks has claimed in a public address to the University community:

"Everything we do at the University of Minnesota is out in the open."

It is time to make these words fact.

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