

AGENDA ITEM 9B.

REPORT OF REDETERMINATION REGARDING CONFIDENTIALITY & DESTRUCTION OF VERBATIM RECORD

Submitted for: Action

Summary: While the Illinois Open Meetings Act, [5 ILCS 120] (the “**Open Meetings Act**”) generally requires that public bodies conduct their business at meetings that are open to the public, the Open Meetings Act also provides various exceptions for matters to be discussed in a closed session. In compliance with the Open Meetings Act, the Illinois Student Assistance Commission (ISAC) has, from time to time, held closed meetings to discuss certain confidential matters that are exempt from public disclosure under the Open Meetings Act.

Under the Open Meetings Act, ISAC is required to “meet at least semi-annually to review minutes of closed meetings to determine (1) whether the need for confidentiality still exists as to all or a part of the closed meeting minutes or (2) whether the minutes or portions thereof no longer require confidential treatment and are available for public inspection.” (5 ILCS 120/2.06(d))

The General Counsel has made the determination that the minutes of the following closed meetings are confidential and should remain closed: January 27, 2012, March 26, 2012, June 25, 2012, June 21, 2013 and January 27, 2015 meetings. The Commission has been provided, attached hereto as Exhibit A, the rationale for maintaining their confidentiality.

Additionally, the Open Meetings Act states in relevant part as follows:
“(a) all public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording...
(c) the verbatim record may be destroyed without notification to or the approval of a records commission or the State Archivist under the Local Records Act or the State Records Act no less than 18 months after the completion of the meeting recorded but only after: (1) the public body approves the destruction of a particular recording; and (2) the public body approves minutes of the closed meeting that meet the written minutes requirements of the Open Meetings Act.” (5 ILCS 120/2.06)

The Illinois Gubernatorial Boards and Commissions Act (15 ILCS 50/20) requires that a “board or commission that maintains a website and has a full-time information technology staff shall make freely available to the public

on that website...[a]ny audio or video recordings of each of its regular or special open meetings, for a period of at least 2 years after the date of the meeting.”

The April 28, 2020 closed session minutes and the June 18, 2020 and September 17, 2020 open and closed session meeting minutes which comply with the Open Meetings Act, have been previously approved by the Commission and at least 18 months has transpired since the recording of that meeting, and 24 months has transpired since the web posting of the open session recording. Those minutes were opened to the public by the commission when the minutes were approved.

The Audit Committee has been provided, under separate cover, the materials in support of this Agenda Item. Based on the foregoing legal authority and the General Counsel’s determination, ISAC staff requests the following action:

Action requested: That the Committee approve the following resolutions:

“BE IT RESOLVED that the Committee has determined the need for confidentiality still exists for the minutes of its closed sessions for: January 27, 2012, March 26, 2012, June 25, 2012, June 21, 2013 and January 27, 2015 and therefore should remain closed to the public.

“BE IT FURTHER RESOLVED that the Committee approves the destruction of the verbatim records of the April 28, 2020 closed session and the open and closed sessions of the June 18, 2020 and September 17, 2020 Committee meeting as at least 18 months has transpired since the completion of those meetings and 24 months has transpired since the web posting.

EXHIBIT A

GENERAL COUNSEL DETERMINATION

MEETING DATE	DESCRIPTION	SHOULD MINUTES REMAIN CLOSED? & REASON FOR REMAINING CLOSED
1/27/12	1. Internal Control Weaknesses 2. External Quality Assessment	Yes Confidential Internal Audit finding
3/26/12	1. Internal Control Weaknesses 2. Closed Minutes	Yes Security & Confidential Internal Audit findings
6/25/12	1. Internal Control Weaknesses	Yes Security reasons
6/21/13	1. Internal Control Weaknesses	Yes Security reasons
1/27/15	1. Closed Min 2. Internal Control Weaknesses 3. Self-Evaluation	Yes Committee Confidential Self Evaluation

**Note – these closed meeting minutes have already been approved by the Commission.
So, the only consideration is whether they should remain closed or be opened to the public**