

## Amendments to the Sunshine Act Create Additional Requirements for Public Agencies

By Danielle Guarascio, Esq.

On June 30, 2021, Governor Wolf enacted Act 65 of 2021 amending Pennsylvania's Sunshine Act. Act 65 establishes additional notice requirements for "public agencies," such as municipalities and school districts. The requirements supplement the public notice requirements already set forth in the Sunshine Act, which require agencies to define the date, time, and location of the meetings in the meeting notice.



Danielle Guarascio

Act 65 requires that, at least 24 hours in advance of a meeting, agencies publish a meeting agenda containing any matter of business that will/may be subject of deliberation or action at the meeting. If an agency has a publicly accessible website, the agenda must be posted on the website. Agencies must post the agenda at the meeting location and at the principal office of the agency. Copies of the agenda must be distributed to individuals in attendance at the meeting.

In an effort to better foster public understanding at meetings, Act 65 prohibits agencies from taking official action on any matter of agency business not listed on the agenda, except under the following circumstances:

- In the event of a real or potential emergency involving a clear and present danger to life or property;
- If the issue arose within 24 hours of the meeting and is de minimis in nature and does not involve the expenditure of funds or entering into a contract or agreement by the agency; or
- If a resident or taxpayer and the agency may only take official action to refer the matter to staff for research and inclusion on the agenda of a future meeting, or, if the matter is de minimis and does not involve the expenditure of funds or entering into a contract or agreement.

An agency may add a matter of agency business to an agenda by a majority vote of those present and voting. The reasons for the changes must be announced before any vote is taken to make a change to the agenda. The agency is required to post the amended agenda on its publicly accessible website, if available, and at its principal office location no later than the first business day following the meeting at which the agenda was changed. The meeting minutes must reflect the substance of, and the vote of any matter added to the agenda.

None of the above requirements apply for conference, work, or executive sessions. The new requirements place an additional burden on agencies to carefully prepare an agenda as to ensure that any required, potential item of consideration is included. The effect of this law will increase transparency and enforce the right of the public to be informed and present at their government's proceedings. The new provisions take effect on August 29, 2021. Public agencies should be prepared to implement these changes in time for their September 2021 public meetings. Our office is happy to assist with any questions related to the new procedures outlined in Act 65.

## Maximizing Tax Collections

By Megan Turnbull, Esq.

Schools and municipalities rely heavily on real estate tax revenue to fund their operations and to provide critical services to their constituents. Beyond a current tax collection year, unpaid real estate taxes continue to be pursued through delinquent tax collection programs. In Allegheny County, these programs are most often implemented through third party collectors. In other counties, the county tax claim bureau serves as the primary collector for schools and municipalities within its footprint.



Megan Turnbull

With every tax dollar in high demand, clients ask what they can do to help collection efforts and what other efforts they can support to improve their tax base health. Below are some successful strategies and considerations:

- Facilitate conversations between current tax collectors and delinquent collections/tax claim bureau to ensure timely turnover and data transfers in usable formats. This smooth transition ensures that collections don't miss a beat and keep up with your budget projections.
- Advise your delinquent tax collector of any interest in targeted collection efforts, payment plan parameters, and expectations surrounding sheriff sales and assumpsit actions. Collaboration and communication will ensure that their efforts are in line with your expectations and needs.
- Communicate with partner municipalities and schools to identify intergovernmental cooperation opportunities. These can range from information sharing regarding

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## Back-to-School: FERPA, but Not HIPAA, Obligations

By Annemarie Harr Eagle, Esq.

As we start a new school year, it is important to be reminded of some confidentiality basics. In general, the Family Educational Rights and Privacy Act (FERPA) requires that confidential student records not be disclosed to third parties without the written consent of a parent or guardian. There are, however, exceptions to this requirement, including a few that are especially relevant as students return to school.

First, directory information, as defined in your annual FERPA notice, may be shared without consent. Be aware though, that the annual FERPA notice gives parents and guardians the right to opt out of this disclosure. Additionally, education records may be disclosed to school officials with a legitimate educational interest in the information, in cases of an ongoing emergency, in response to a court order or subpoena, when disclosure is in connection for financial aid for which the student has applied or received, or to guardians of a dependent student.

Importantly, education records are defined as those records that are related to the student and are maintained by the school district. Therefore, student health records are protected by FERPA and not the Health Insurance Portability and Accountability Act (HIPAA). The HIPAA Privacy Rule does not typically apply to primary and secondary schools because generally these schools are not “covered entities” as defined by HIPAA.

As a new school year is on the horizon, you are encouraged to review your annual FERPA notice to ensure that directory information is carefully defined. It is also recommended to review your record maintenance policies and protocol. In addition, should your school receive a request for records from someone other than a parent, it is recommended that you carefully review that request to prevent the inappropriate disclosure of records. And finally, if concerns regarding the vaccination status of students are being raised, do not fret over HIPAA compliance, as schools generally have no compliance obligations under HIPAA. Should you have any questions regarding FERPA, HIPAA, or general records questions, we encourage you to contact your solicitor directly or reach out to our firm.



Annemarie Harr Eagle

## Maximizing Tax Collections, *continued*

successes to more formal programs to jointly collect taxes together.

- Understand property donation under 53 P.S. Section 7108.1. This type of property recycling can facilitate a relatively quick transfer of property to a municipality or county. Although tax liens are removed through this process, mortgages are not.
- Gather resources regarding local programs like the Allegheny County Vacant Property Recovery Program, Repositories of Unsold Properties, and land banks to share and to promote responsible redevelopment in your community.

*Megan Turnbull and Danielle Guarascio are available to help you develop any of these strategies or answer your tax collection questions.*

In addition, WBK has welcomed T.J. Chapman as our new Tax Department Supervisor. T.J. is an experienced paralegal with over 15 years of local tax collection experience. He has been working hard with the Department to implement our new technology upgrades and keep collections efforts moving forward. We are happy to have T.J. on board!

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## We're Speaking...

- Attorney Annemarie Harr Eagle recently presented at the annual Pennsylvania Association of Career and Technical Administrators (PACTA) Summer Leadership Conference held at The Penn State Conference Center and Hotel in State College, Pennsylvania on July 27-29, 2021. Attorney Harr provided both a general legal update, as well as Title IX updates to attendees.
- On August 3, 2021, Attorney Aimee Zundel spoke at the PBI Snapshots of Special Education Law seminar.
- On October 15, 2021, Attorney Zundel will be presenting at the Exceptional Children's Conference being held virtually.