

CASE NAME	STATUTE INVOLVED	TRIAL COURT	APPELLATE DIVISION	SUPREME COURT	PENDING LEGISLATION
<i>Kean Fed'n of Tchrs. v. Morrell</i>	Open Public Meetings Act (OPMA)	2015 WL 3460030 (Law Div., 2015).	448 N.J. Super. 520 (App. Div. 2017).	<i>cert. granted</i> No. A-84, 2018 WL 3062207 (N.J. June 21, 2018).	S379, 2020 Leg., 219th Leg. (N.J. 2020); A748, 2020 Leg., 219th Leg. (N.J. 2020). N.J.S. 10:4-14
<p><u>Issue:</u></p> <p>(1) The obligation of a public body to make meeting minutes promptly available to the public.</p> <p>(N.J.S. 10:4-14).</p>	<p><u>10:4-14. Minutes of meetings; availability to public</u></p> <p>Each public body shall keep reasonably comprehensible minutes of all its meetings showing the time and place, the members present, the subjects considered, the actions taken, the vote of each member, and any other information required to be shown in the minutes by law, which shall be promptly available to the public to the extent that making such matters public shall not be inconsistent with section 7 of this act.1</p> <p>Source: L.1975, c. 231, § 9, eff. Jan. 19, 1976.</p>	<p><u>Holding:</u> The Board violated OPMA when they failed to make the minutes of the September 15 and December 6, 2014 meetings "promptly available."</p> <p>A delay of 94 and 58 days, respectively, is not prompt under the statute.</p> <p><u>Remedy:</u> Court issued a permanent injunction requiring the Board to make all minutes of all future meetings available to the public in 45 days.</p>	<p><u>Holding:</u> Upheld with the trial court's finding that the Board failed to make its minutes promptly available to the public as required by N.J.S. 10:4-14.</p> <p><u>Remedy:</u> Reversed and vacated the permanent injunction requiring the board to make all future minutes available within 45 days of each meeting. A judicially imposed permanent deadline usurps the public body's managerial prerogatives and invites continuous judicial involvement in the form of enforcement by motion practice.</p> <p><u>Suggested:</u> Urged the Board to consider increasing the frequency of its meetings.</p>	<p><u>Holding:</u> Upheld finding that minutes were not made promptly available to the public.</p> <p><u>Reasonableness</u> must remain the touchstone when assessing the promptness of a public entity's action in this area. Case-by-case analysis of "promptly available"</p> <p><u>No Set-Time Frame:</u> Court refused to set a specific time frame for the calling of meetings - this remains the prerogative of the body entrusted with running the public entity.</p> <p><u>Remedy:</u> Minutes should be released within days of their approval unless truly extraordinary circumstances prevent their availability to the public.</p>	<p>b. Each public body, other than the Legislature, shall keep reasonably comprehensible cause the public body to <u>comprehensive minutes of all its meetings, including any portion of a meeting from which the public was excluded pursuant to section 7 of P.L.1975, c.231 (C.10:4-12), ...</u></p> <p><u>Minutes shall be made available to the public as soon as possible but not later than 15 business days after the next meeting of the public body occurring after the meeting for which the minutes were prepared, to the extent that making such matters public shall not be inconsistent with section 7 of P.L.1975, c.231 (C.10:4-12).</u></p> <p>Municipalities that meets the criteria set forth in the pending legislation they may have 20 days after the next subsequent meeting within which to produce their minutes.</p>
<p><u>Issue:</u></p> <p>(2) The obligation to provide employees, whose employment status may be adversely affected, with notice informing them of their right to compel their public employer to discuss their employment status in public.</p> <p>N.J.S. 10:4-12(b)(8).</p>	<p><u>10:4-12. Meetings open to public; exclusion of public; subject matter of discussion</u></p> <p>a. Except as provided by subsection b. of this section all meetings of public bodies shall be open to the public at all times...</p> <p>b. A public body may exclude the public only from that portion of a meeting at which the public body discusses any: ...</p> <p>(8) matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting....</p>	<p><u>Holding:</u> The Board did not violate the OPMA when it voted in a <u>public session</u> not to reappoint a faculty member without advising her, in writing, of her right to waive the privacy protections afforded to the public employees under N.J.S. 10:4-12(b)(8).</p> <p>Absent any discussion of the individual's employment status during a <u>closed session</u>, or a stated intention to do so, the OPMA does not require a public body to issue a notice pursuant to <i>Rice</i> .</p>	<p><u>Holding:</u> A public body <u>is required</u> to send a <i>Rice</i> notice <u>whenever</u> it intends to act on the employment matters enumerated in the statute. (<i>i.e.</i> terms & conditions, termination, evaluation of performance, promotion, or disciplining of any specific public officer...)</p> <p>This must be done regardless of whether the discussion occurs during the open or closed session of the meeting.</p> <p><u>Remedy:</u> Employment actions taken by the Board for failure to give notice are declared null and void.</p>	<p><u>Holding:</u> The App. Div. erred in reversing the trial court judgment on this issue. There is <u>no obligation</u> to send a <i>Rice</i> notice when a public body determines from the start to conduct its discussion about employment related matters during a public session.</p> <p><u>Remedy:</u> The App. Div. voiding of the personnel actions is reversed.</p> <p><u>Caution:</u> Once a public entity has committed to a public discussion on a topic tangential to the personnel exception, if there is a request to moved to closed session then <i>Rice</i> notice is required to be given to those affected.</p>	<p>N.J.S. 10:4-12</p> <p>a. Except as provided by subsection b. of this section all meetings of public bodies shall be open to the public at all times....</p> <p>b. A public body may exclude the public only from that portion of a meeting at which the public body discusses any: [...]</p> <p>(8) matter involving the employment, appointment, termination of employment terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of any specific prospective public officer or employee or current public officer or employee, prospective or current, employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting. Public bodies shall give written notice of at least two days to any <u>officer or employee, and any adversely affected individual or individuals, in advance of any proposed meeting at which his or her employment, appointment, termination, evaluation of the performance of, promotion or discipline may be discussed. The matter or matters pertaining to him or her shall be discussed in closed session unless the officer or employee and any adversely affected individual or individuals, but not a third party representative, requests in writing, that the matter or matters be discussed in open session....</u></p>