

From: [Leah B. Rachin](#)
To: [Jon Carter](#)
Subject: FOAA Question Re CPUC
Date: Friday, January 31, 2020 5:49:09 PM

**** CAUTION EXTERNAL EMAIL ****

Jon,

You advised me that concern had been expressed at last night's meeting about the fact that several members of the 11 member committee sometimes encounter each other, either professionally or socially, outside the context of CPUC meetings. Accordingly, they were concerned about possibly running afoul of FOAA as a result. For the reasons that follow, if the precautions outlined below are taken, I do not believe that such social or professional encounters will result in a violation of FOAA.

Meetings of the CPUC are "public proceedings" as defined under FOAA. As such, any of their meetings must be conducted in public. Title 1 M.R.S. section 406 says that meetings of 3 or more members of a municipal board or committee need to be noticed as public meetings. This assumes that the purpose of the meeting is to discuss the business of the body. If, however, the purpose of the meeting is **not** to discuss public business, but relates to personal or other professional business, then I do not believe that such a meeting (involving three or more individuals who also happen to be members of the CPUC) violates FOAA.

Ultimately, members of the CPUC are well-advised to be concerned about compliance with FOAA. However, so long as they take care not to discuss any CPUC business during their professional or personal encounters, I do not believe that they will violate FOAA. Of course, public perception is always an issue. If committee members are seen together, there could be a perception or assumption of impropriety. Any such allegation, however, would have to be supported by evidence that public business was being discussed before any FOAA challenge could prevail. Additionally, the person making such an allegation would bear the burden of proof of establishing the violation.

Should you wish to discuss this further, please let me know.

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