SP.11.12, Revisions to the Bylaws and Standing Rules Regarding Illinois Open Meetings Act Compliance

BACKGROUND
The Illinois Open Meetings Act (5 ILCS 120/) (OMA) requires that "public bodies" in the state hold open deliberations and take actions in full view of the public. To that end, the OMA requires that public bodies provide notice of their agenda and allow members of the public to observe proceedings and to have access to minutes and other documents. The Freedom of Information Act (5 ILCS 140/)(FOIA) also mandates the availability to the public of most documents generated by public bodies and their constituent assemblies, such as committees and subcommittees. The OMA recognizes that public bodies must from time to time deliberate about sensitive issues that require confidentiality, including employment, financial affairs, and criminal matters. Thus, public bodies are entitled to close meetings, but only under a narrow set of statutory circumstances that must be articulated in advance.

Historically, the Senate has always followed rules that adhere to the spirit of the OMA and FOIA. Senate rules require that meetings always be open to the public, with provisions to close them when the Senate deems it necessary. Senate documents have always been available to the public under Senate rules. However, Senate rules about these matters are not 100% in compliance with OMA and FOIA.

Based on the Attorney General’s Guide to the Illinois Open Meetings Act and an Illinois appellate court opinion in Board of Regents v. Reynard (292 Ill.App.3d 968, 4th District, 1997), it appears that the University of Illinois Academic Senate, including its committees and subcommittees, may be "public bodies" within the meaning of the OMA. Thus, the Senate's Bylaws and Standing Rules must be amended to bring the Senate into compliance. This proposal sets out those amendments.

RECOMMENDATION
The Senate Committee on University Statutes and Senate Procedures recommends approval of the following revisions to the Bylaws and Standing Rules. Text to be added is underscored, and text to be deleted is indicated in [square brackets].

PROPOSED REVISIONS TO THE BYLAWS

Part A – Meetings

### 1

[Part A – Meetings]
9. a. Meetings of the Senate shall ordinarily be open to the public. Accredited representatives of the news media may observe Senate meetings, and facilities shall be provided for the public at large to listen to and, if physically feasible, to observe Senate proceedings.

b. The Senate reserves the right to close its sessions in those cases in which public disclosure would substantially and adversely affect the matters being considered. A specific exemption of the Open Meetings Act [5 ILCS 120/2(c)] permitting the closure of the meeting must be cited before closing a session.

c. This policy that Senate meetings are open to the public, and any implementing procedures, shall apply to the Senate when meeting as a body, and also to Senate committees and other constituent bodies.

d. The text of the Open Meetings Act (5 ILCS 120/), including Section 2(c) setting out the permissible reasons for closing a meeting, may be found at the following URL: http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=84&ChapterID=2.

PROPOSED REVISIONS TO THE STANDING RULES
Standing Rule 5. Open Meetings Regulations

D. 1. Matters of business which are judged by the Senate Executive Committee to warrant a closed session of the Senate will ordinarily be placed last on the agenda. Such matters need not be specifically described in advance, [but the general category of the matter warranting a closed session will be indicated.] The Senate Executive Committee must cite the specific exemption in the Open Meetings Act (5 ILCS 120/2(c)) that permits the closure of the meeting.

2. If in the course of a debate in an open meeting, matters evolve which a Senate member deems to warrant a closed session, the senator may move for a closed session. The senator must cite the specific exemption of the Open Meetings Act (5 ILCS 120/2(c)) that permits the closure of the meeting. Unless the Senate rules otherwise, the approval of such a motion will postpone further debate on the matter to the conclusion of the regular agenda, at which time the meeting will be closed. No such motion shall be deemed approved without a two-thirds vote of the senators present and voting.

3. When the agenda is presented at the beginning of a Senate meeting, any senator may move to schedule an item proposed for open session to a closed session. The senator must cite the specific exemption of the Open Meetings Act (5 ILCS 120/2(c)) that permits the closure of the meeting. Such a motion shall require for approval a two-thirds vote of those senators present and voting.
4. When a closed session is about to begin, the presiding officer shall clear the chambers and public areas of all persons not entitled to be present.

5. The Senate may not take any final vote during a closed session. Procedural votes, such as a vote to refer to a committee, may be taken in closed session. In order to take a final vote on any matter, the session must first be reopened to the public.

6. The text of the Open Meetings Act (5 ILCS 120/), including Section 2(c) setting out the permissible reasons for closing a meeting, may be found at the following URL: [http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=84&ChapterID=2](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=84&ChapterID=2).

E. Semi-annually, the Senate Executive Committee shall review the minutes of all closed Senate sessions to determine whether those minutes may be released to the public.

Standing Rule 8. To Take Jurisdiction of Items Reported for Information

The Senate may take responsibility from any Senate committee on a reported action taken by the committee on behalf of the Senate. This may be accomplished by passage of a motion to take jurisdiction. The motion to take jurisdiction allows debate on the merits of the original committee action. Passage of this motion requires a simple majority. The item becomes Old Business on the agenda of the next Senate meeting, [unless the Senate votes by a two-thirds majority to take immediate action.]

Standing Rule 10. Copying and Searching Senate Records

B. Senate committee [agenda, minutes, and] working documents [which] that are not distributed to the Senate are not considered public documents. They are not available for distribution except to the members of the originating committee and to the Senate Executive Committee, without the express consent of the originating committee. Senate and Senate committee meeting agenda and approved minutes are considered public documents.

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