

**From:** [Rosenson, Valerie](#)  
**To:** [Dalena, Douglas](#)  
**Cc:** [Isidro, Judith](#)  
**Subject:** Request for Legal Opinion  
**Date:** Wednesday, January 26, 2022 10:29:31 AM  
**Importance:** High

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Doug –

President Curtis and Rep. Bewkes, the Co-Chairs of the Board of Representatives Charter Revision Committee have asked me to request a legal opinion regarding the procedures the committee may follow in selecting the members of the Charter Revision Commission. The Commission is made up of members of the public who have volunteered to serve on the Commission and the Committee has conducted interviews of candidates in public over the past several weeks. The Committee will be meeting next week to select the members of the Commission. The question raised is whether or not the Committee can meet in executive session to discuss the candidates (assuming proper notice is given to the candidates), while voting in public, or whether the Board should discuss the candidates in caucus meetings.

For past Charter Revision Commissions, the Board members have met in caucus to discuss candidates, and the recommendations of the caucuses have been stated in the public session, rather than meet in executive session. This was based on the conclusion that members of the Charter Revision Commission are not public officers because they do not exercise government functions, rather they make a recommendation to the Board of Reps, which decides which Charter changes are submitted to the voters. (Although the Charter Commission is appointed under the authority of State statute, the decision whether or not to accept its recommendations falls upon the BOR.) This conclusion was based on old case law which describes the characteristics of public office vs. employment as (1) an authority conferred by law, (2) a fixed tenure of office, and (3) power to exercise some portion of sovereign functions of government.

Given that the Committee will be meeting next Wednesday to discuss candidates, it would be helpful to have an answer well in advance of that meeting in the event that caucus meetings need to be scheduled.

Please feel free to call me with any questions.

Thank you,  
Valerie

*Valerie T. Rosenson*

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