Original Exercise

Until the recent election, members of the Puppy Party held all seven seats on the Grand View City Council. The Cat Crew, who promised in the recent election to significantly reorder the city’s budget priorities, now outnumber the Puppies on the Council by four to three. Buster Barkley, a Puppy Party councilmember, learned that the four Cat Crew members plan to meet privately within several weeks to write their proposed budget. This budget will then be presented at a full meeting of the Council, which requires a quorum of five. The Cat Crew told Barkley that neither he nor any other member of the public would be permitted to attend the private meeting. The four members do not constitute any formal Council committee.

Is the Cat Crew’s position lawful under the state Open Meetings Act?

The Open Meetings Act provides:

Sec. 1. Purpose. It is vital in a democratic society that public business be performed in an open and public manner so that the citizens shall be advised of the performance of public officials and of the decisions that are made by such officials in formulating and executing public policy. Toward this end, this chapter is adopted and shall be construed.

Sec. 2. Definitions. As used in this Act:

(a) “Meeting” means the convening of a public body for the purpose of deliberating toward or rendering a decision on a public policy.

(b) “Public body” means any state or local legislative body, including a board, commission, committee, subcommittee, authority, or council that is empowered by law to exercise governmental or proprietary functions.

Sec. 3. All meetings of a public body shall be open to the public and shall be held in a place available to the general public.

The state court of appeals has decided one case concerning this statute:

Orange County Journal Co. v. Patterson (1986)

The appellant, Orange County Journal Co., brought an action seeking declaratory and injunctive relief against McPhee and the other members of the Santiago Board of Education, claiming that they had violated, and planned to continue violating, the state Open Meetings Act by closing a series of “preliminary” and “informal” meetings to the public. The trial court granted the defendants’ motion to dismiss on the ground that no formal actions were taken at these meetings, even though they were attended by the entire board. Therefore, the court reasoned, they were not “meetings” within the meaning of the Act. We reverse. Section 2(a) defines “meeting” as the convening of a public body “for the purpose of deliberating toward or rendering a decision on a public policy (emphasis supplied). Every step in the decision-making process, including the decision itself, is necessarily part of the deliberation that the

1 Adapted from a problem provided to me by Professor Jodi Jewell, University of La Verne College of Law.
Statutory Analysis Problem

legislature intended to affect by enactment of the statute before us. “Preliminary” and “informal” meetings are necessarily part of that deliberative process.
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Modified Exercise (Cat Crew Perspective)

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