

# MAINE STATE LEGISLATURE

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February 11, 2010

The Honorable Lawrence Bliss, Senate Chair  
The Honorable Charles Priest, House Chair  
Joint Standing Committee on the Judiciary  
100 State House Station  
Augusta, ME 04333-0100

Re: L.D. 1551, "An Act To Further Regulate the Communications of Members of  
Public Bodies"

Dear Senator Bliss, Representative Priest and Members of the Committee:

Representative Dostie asked that I write to your committee concerning the advice our Office has given in the past on the question of whether a party caucus is subject to the Freedom of Access Act ("FOAA"), 1 M.R.S.A. §§ 401 *et seq.*

The Attorney General has not issued any opinion on this issue and this letter should not be cited as one. I will simply observe that the FOAA does not directly address party caucuses and the issue is one of statutory interpretation.

That part of the FOAA governing public proceedings applies to "[t]he Legislature, its committees and subcommittees." 1 M.R.S.A. § 402(2)(A). "Legislative subcommittee" is defined as "3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee." 1 M.R.S.A. § 402(1-A). As I understand it, party caucuses are not generally committees or subcommittees of the Legislature. Accordingly, we have said that we could defend a decision to close a caucus, while noting that if a legal challenge were to be brought, the specific circumstances would be relevant to the outcome.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Pistner".

Linda M. Pistner  
Chief Deputy Attorney General