

Executive Session Quick Reference Guide

Executive Session Procedure: Process for Convening the Session

1. Call meeting to order in open session.
2. Roll Call Vote requiring a majority vote of all members of the body specifying the reason(s) (see below) including all information that may be revealed without compromising the purpose of the executive session.
3. Specify the body's intent to return or not to return to public session.

Executive Session Reasons: Below are suggested motions for each of the exceptions to the Open Meeting Law (Chapter 30A Section 21 (a)). You can combine more than one exception if applicable

1. **To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.**

NOTE: The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights: i. to be present at such executive session during deliberations which involve that individual; ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session; iii. to speak on his own behalf; and iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

Suggested Motions-

Move to go into Executive Session to discuss the reputation, character, physical condition or mental health of an individual, and [not] to reconvene in Open Session.

Move to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual, and [not] to reconvene in Open Session.

2. **To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;**

Suggested Motions-

Move to go into Executive Session to conduct strategy sessions in preparation for negotiations with nonunion personnel, and [not] to reconvene in Open Session.

Move to go into Executive Session to conduct collective bargaining sessions with [bargaining unit], and [not] to reconvene in Open Session.

Move to go into Executive Session to conduct contract negotiations with nonunion personnel [name(s) or position(s)], and [not] to reconvene in Open Session.

3. **To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;**

The Chair should declare that an executive session is necessary to protect the bargaining or litigation position of the body.

Suggested Motions-

Move to go into Executive Session to discuss strategy with respect to collective bargaining, and [not] to reconvene in Open Session.

Move to go into Executive Session to discuss strategy with respect to litigation, and [not] to reconvene in Open Session.

4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;

Suggested Motion- Move to go into Executive Session to discuss the deployment of security personnel or devices, and [not]to reconvene in Open Session.

5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

Suggested Motion- Move to go into Executive Session to investigate charges of criminal misconduct or to discuss the filing of criminal complaints, and [not] to reconvene in Open Session.

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;

The Chair should declare that an executive session is necessary.

Suggested Motion- Move to go into Executive Session to consider the purchase, exchange, lease or value of real property, and [not] to reconvene in Open Session.

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

Suggested Motion- Move to go into Executive Session to comply with the provisions of [specify the law or grant-in-aid requirement applicable], and [not] to reconvene in Open Session.

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;

The Chair should declare that an executive session is necessary.

Suggested Motion- Move to go into Executive Session to consider [and interview] applicants for employment, and [not] to reconvene in Open Session.

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session;

Suggested Motion- Move to go into Executive Session to meet or confer with a mediator and [not] to reconvene in Open Session.

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

Suggested Motion- Move to go into Executive Session to discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier and [not] to reconvene in Open Session.

This material is not provided to cover all legal issues. Other legal requirements may apply to particular situations. Should a specific situation arise, you should be sure to discuss same with your legal counsel.

The Open Meeting Law encourages meetings to be as open as possible. These exceptions to open meetings should only be used when necessary.