

Section B: School Board Governance and Operation

BEC-R Executive Session Law

- I. To enter executive session, a school board must:
 - A. Start with a public meeting;
 - B. Have a public recorded vote of 3/5 of members present and voting.
 - C. The motion to go into executive session must indicate the nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session. Failure to state all authorities justifying the executive session does not constitute a violation of the Freedom of Access Act if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate the Freedom of Access Act if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.
 - D. When labor contracts or negotiations are the subject of an executive session, the parties must be named in the motion.
- II. Restrictions during executive session
 - A. Only matters stated in the motion may be considered.
 - B. No official actions shall be finally approved.
 - C. No public record shall be kept.
- III. Items Which May Be Discussed in Executive Session
 - A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of public officials, appointees or employees of the school or the investigation or hearing of charges or complaints against persons, subject to the following conditions:
 - 1. An executive session may be held only if public discussion could be reasonably expected to cause damages to the reputation or the individual's right to privacy would be violated;
 - 2. Any person charged or investigated is permitted to be present if he/she so desires;

3. Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against him/her be conducted in open session. Such requests must be honored; and
 4. Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.
- B. Discussion or consideration of suspension or expulsion of a student, the cost of whose education is paid from public funds. The student and legal counsel (and parents/guardians if student is a minor) shall be permitted to be present if the student, parents/guardians so desire.
 - C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to the real property, disposition of public property, or economic development, but only if premature disclosure of the information would prejudice the competitive or bargaining position of the public body.
 - D. Discussion of labor contracts and proposals and meetings between the board and its negotiators. (Negotiations between the representatives of a public employer and public employees are closed unless opened by agreement of both parties.)
 - E. Consultations between the board and its attorney concerning the board's legal rights and duties, pending or contemplated litigation, settlement offers, or other matters protected by the attorney/client privilege, or where premature public knowledge of the matter would place the board at a substantial disadvantage.
 - F. Discussion of information contained in records made, maintained or received by the public body, when access by the general public is prohibited by statute.

Legal Reference: 1 MRSA § 405

Cross Reference: BEC – Executive Sessions

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