PUBLIC MEETINGS, EXECUTIVE SESSION & EMAIL - HANDOUT

“A meeting is an event where minutes are kept and hours are lost” - Mark Twain

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Sample Script for Executive Sessions

The School Board will now meet in executive session for the purpose of _______________. The executive session is held pursuant to ORS 192.660 (2) (a-i) [choose appropriate sections(s) for this session], which allows the School Board to meet in executive session to ________. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

Representatives of the news media, designated staff and invited guests shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No recording of the executive session is allowed without express permission from the board. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

Available on OSBA website @ www.osba.org
The Why and How of Public Meetings

1. **Purpose of Oregon’s Public Meeting Laws:** to provide the public an opportunity to observe the decision-making process of government bodies.

“The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of (the public meeting laws) that decisions of governing bodies be arrived at openly.” ORS 192.620

All meetings of the governing boards of a public body, including School and Service District boards must be open to the public. ORS 192.630

2. **What defines a meeting?** A quorum may not meet in private for the purpose of deciding or deliberating on a decision on any public business.

   a. A quorum is defined by statute as a majority of the members of the district school board. ORS 332.055
      i. A quorum *deliberating* district business = a meeting
      ii. A quorum *deciding* district business = a meeting
      iii. Also, the “yes” vote of the majority of members of the board is required to transact any business.
   
   b. Committee meetings must also be public meetings--sometimes:
      i. Committees that will make recommendations *to the board* must have public meetings;
      ii. Committees that will make recommendations *to the superintendent* generally do not.
   
   c. Email/text communications are subject to public meetings law if:
      i. They are between a quorum of members; and
      ii. They constitute deliberation toward a decision or a decision on matters of policy or administration.
      iii. Caution: Email strings can cumulatively amount to communication between a quorum of members.
      iv. So can text messages!
      v. Best Practices: do not use text messages to communicate regarding district business. Use email for one-way communications only, for example: “Here is the update from the design firm on the building project. For review only, not discussion.”

3. **Notice** The public must receive notice of the meeting in advance.
   
   a. Notice must be reasonably calculated to give actual notice of the time, place and agenda to interested persons. ORS 192.640.

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b. Notice must include:
   i. Time -  
      (1) Regular Meeting - within a “reasonable” amount of time; 
      (2) Special Meeting - More than 24 hours;  
      (3) Emergency Meeting - if a meeting is set for less than 24 hours, it must be called as an emergency. 
   ii. Place 
      (1) The location must be: 
         (a) within the district’s geographic boundaries; 
         (b) the administrative headquarters; 
         (c) or other nearest practical location.  
      (2) The Emergency Exception - any reasonable location  
      (3) Nondiscriminatory Site  
         (a) The site may not exclude persons based on race, color, creed, sex, sexual orientation, age or other protected status. 
         (b) The site must be accessible to persons with disabilities. 
         (c) When requested, district must make a “good faith effort” to have a sign language interpreter at regularly scheduled meetings. ORS 192.630 (5) 
   iii. Agenda Must be reasonably calculated to give notice to interested persons of the matter to be addressed. 
       (1) Example: “Discuss public improvement contract;” “Discuss new superintendent contract.”

4. Meeting minutes can be audio, video or digital recording or the taking of written minutes. Minutes are required of all meetings, including Executive Sessions. A full transcript is not required, except as otherwise provided by law, but written minutes or recording must give a “true reflection of the matters discussed at the meeting and the views of the participants.”ORS 192.650 (1). All minutes or recordings must be available to the public “within reasonable time after the meeting.” ORS 192.650 (1)

5. Executive Sessions (or “closed session”)  
   a. Typical reasons for a School Board to go into Executive Session (ORS 192.660)  
      i. To consider the employment of District employees.  
      ii. To review and evaluate the performance of an employee who does not request a public meeting and consult with a labor negotiator.  
      iii. Labor negotiations.  
      iv. Real property transactions.  
      v. Consult with legal counsel.  
      vi. Consider exempt records.  
      vii. Expulsion hearings or examination of confidential medical records must be held in executive session unless the student or parent requests an open hearing. ORS 332.061. On these matters, vote may be taken in closed session.
   b. Executive Session Agenda
i. Agenda for an Executive Session notice must provide notice of the law that authorizes the executive session.
   (1) Example: “Pursuant to ORS 192.660 (2)(h), the governing body will hold an executive session to consult with counsel concerning legal rights and duties with regard to current litigation.

ii. If the board will make a decision after its closed session discussion, the notice must also include an open session after the closed meeting.

c. Media- Representatives of the news media are be allowed to attend executive sessions ORS 192.660 (4). They may not report on the deliberations during executive session expect to state the general subject of the session as previously announces.

d. Best Practice: The Chair or a Delegate should read the standard warning about use of information gained in session to all media representative, each time it goes into closed session. Be sure to include any late arriving members of the media.

e. Media can be excluded:
   i. When board discusses/deliberates concerning:
      (1) Student expulsions;
      (2) Decisions of student medical or educational records; or
      (3) If the reporter or the media organization is involved in litigation that the district is discussing; or
      (4) If the board is meeting with labor negotiators to discuss bargaining strategies

6. Oregon Revised Statutes (ORS) references specific to board meetings
   a. School Districts: ORS 342.040 to 342.057
   b. Education Service Districts: ORS 334.025 to 334.100
   c. Community Colleges: ORS 341.283
   d. Public Meetings, generally: ORS 192.610 to 192.690
TRUE/FALSE QUIZ

1. All meetings of the governing body must be open to the public and all persons are permitted to attend.
   
   False: ORS 192.630 (1)

2. A board member may poll other members of the board using e-mail or telephone to determine how the board feels about a particular topic or issue.
   
   False: ORS 192.670 (1)

3. Without exception, all meetings of the board must be held within the district’s boundaries.
   
   False: ORS 192.630 (4)

4. Board meeting notices (agendas) need only list the principal subjects to be considered by the board.
   
   True: ORS 192.640 (1)

5. If your regular board meetings have a set day of the month and a set place for all meetings, you must publish each meeting announcement in the newspaper.
   
   False: ORS 192.640(1)

   
   A majority of members of a board may call for and convene a special meetings of the board providing proper statutory notice has been given.
   
   True: ORS 192.640 & ORS 334.100 (2)

7. An announcement of a special meeting must be given at least 24 hours prior to the meeting.
   
   True: ORS 192.640 (3)

8. If a meeting is called exclusively for the purpose of meeting in executive session, the public need not be notified.
   
   False: ORS 192.640 (2)
9. Emergency meetings may be called when the business cannot wait for a regular or special meeting.

True: ORS 192.640 (3)

10. Boards must distribute their agenda and follow it during the meeting.

False: ORS 192.640 (1)

Agendas need only list the principal topics.

11. The board must provide for the taking of minutes at all meetings.

True: ORS 192.650 (1)

12. Meeting minutes must be kept in written form.

False: ORS 192.650 (1)

May be sound, video, digital or written

13. The board chairman is not required to vote on issues except to break a tie.

False: ORS 192.650 (1)(c)

14. The names of board members voting negatively or abstaining on any business before the board must be recorded in the minutes.

True: ORS 192.650 (1)(c)

15. The board may appoint a new member to the board by casting a secret ballot in executive session.

False: ORS 192.650 (1)(c); 192.660 (6), (7)

16. Representatives of the news media must be allowed to attend executive sessions other than:

a. Strategy sessions with board’s labor negotiator;
b. Student expulsion hearings;
c. Hearings on student medical records;
d. Discussions about litigation involving the media representative’s organization.

True: ORS 192.660 (4), (5)

17. No executive session may be held for the purpose of taking final action, (voting).

False: ORS 192.660 (6) - Final action may be taken on student expulsions and student medical records.

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18. Labor negotiations must be conducted in open session unless both parties to the negotiations request they be conducted in closed session.

True: ORS 192.660 (3)

19. The chief executive officer (President or Superintendent) may be evaluated in an executive session.

True: ORS 192.660 (2)(i)

20. An absent board member may vote by submitting a written vote in a sealed envelope to the board chair in advance of the meeting.

False: OP Atty Gen, Appendix C-6, para E, Attorney General’s Public Records and Meetings Manual

21. Applicants for a vacant board position may be interviewed and appointed in an executive session.

False: ORS 192.660 (7)(a)

22. Advisory or sub-committees appointed by the board to make recommendations to the board are exempt from public meeting laws provided a majority of the board are not members of the committee.


23. The board must allow the public an opportunity to speak at each regular or special meeting.

False: ORS 192.630(1)