

A-9a PROCEDURE Board Meetings - Closed Sessions (Executive Sessions)

CLOSED SESSION; WHEN; PURPOSE; REASONS LISTED; PROCEDURE; RIGHT TO CHALLENGE; PROHIBITED ACTS; CHANCE MEETINGS, CONVENTIONS OR WORKSHOPS.

- (1) The Board may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:
- (a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the Board;
 - (b) Discussion regarding deployment of security personnel or devices;
 - (c) Investigative proceedings regarding allegations of criminal misconduct;
 - (d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to the Board of Governors.

- (2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the Board Chair immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. When holding such a closed session, the Board shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this procedure, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the Board to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.
- (3) Any member of the Board shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for:
- (a) the protection of the public interest or
 - (b) the prevention of needless injury to the reputation of an individual.

Such challenge shall be overruled only by a majority vote of the members of the Board. Such challenge and its disposition shall be recorded in the minutes.

- (4) Nothing in this procedure shall be construed to require that any meeting be closed to the public. Neither any person nor the Board shall fail to invite a portion of the Board's members to a meeting, and the Board shall not designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.
- (5) Neither the Nebraska Open Meetings Act nor this procedure applies to chance meetings or to attendance at or travel to conventions or workshops of members of the Board at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the Board has supervision, control, jurisdiction, or advisory power.
- (6) When the Board convenes in closed session, only elected Board Members and such other persons as the Chair determines shall attend. This determination by the Chair as to who is to be included or excluded may be challenged and changed by a majority of Board Members voting.

After the business of the closed session has been concluded, the public shall be invited to rejoin the meeting. Then Chair shall then announce that the Board is reconvened in open session and the time at which the closed session was concluded.

Related Policy: A-9

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Web link:

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