

Executive Session Refresher for Districts

No public body shall hold executive sessions unless specifically provided for in [Section 307](#) of the Open Meeting Act.

Board Meeting Agenda Guidance

[Section 311](#) of the Open Meetings Act - Agenda Requirements

When doing an executive session, the agenda must contain sufficient information for the public to ascertain that an executive session will be proposed, identify the items of business and purposes of the executive session, and state specifically the provision of Section 307 of this title authorizing the executive session.

Below are some examples and general guidance points to help navigate the executive session process.

Agenda Example 1. Employment Matters

Proposed executive session: Possible discussion and vote to enter Executive Session pursuant to 25 O.S. § 307(B)(1) to discuss annual review of District Secretary and possible raise increase for the District Secretary.

1. Citation to specific 307(B) provision and identification of the specific employment action (in this example it is specifying the annual review and the possible raise);
2. Name or unique position must be identified (Per Attorney General Opinion 1997 OK AG 61); and
3. Salary and evaluations can be (this is optional) discussed in Executive Session (Per Attorney General Opinion 1996 OK AG 40)
4. Job openings do not qualify for executive session nor do discussions and actions regarding independent contractors (Per Attorney General Opinions 2006 OK AG 17 and 2005 OK AG 29)

Agenda Example 2. Confidential Communication between Board and its Attorney

Proposed executive session: Possible discussion and vote to enter Executive Session pursuant to 25 O.S. § 307(B)(4) for confidential communications between Board and its attorney concerning the pending inverse condemnation case filed by Mr. Bob Smith against the Board, where the Board's attorney has determined disclosure will seriously impair the ability of the Board to process the claim in the public interest.

1. Citation to specific 307(B) provision;
2. Identify the claim, investigation, or proceeding; and
3. Board's attorney must make determination if 307(B)(4) used

Agenda Example 3. Federal Confidentiality Laws

Proposed executive session: Possible discussion and vote to enter Executive Session pursuant to 25 O.S. § 307(B)(7) to discuss USDA-NRCS conservation plans for John Doe, Jane Doe, Jack Doe, and Jan Doe whereby disclosure of any additional information would violate federal confidentiality laws.

1. Citation to specific 307(B) provision;

2. Identify the action being taken (discussion of USDA-NRCS conservation plans); and
3. General identification of the conservation plans to be discussed (list of names)

Agenda Example 4. Purchase or Appraisal of Real Property

Proposed executive session: Possible discussion and vote to enter Executive Session pursuant to 25 O.S. § 307(B)(3) to discuss the purchase of real property located at 123 B Street, Deer Creek, OK.

1. Citation to specific 307(B) provision;
2. Identify the action being taken (purchase of real property); and
3. General identification of the property to be discussed (address or legal description)
4. No landowner, real estate salesperson, broker, developer or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session, unless they are operating under an existing agreement to represent the public body. Usually will be limited to the Board members, their attorney, and immediate staff.

Executive Session Meeting Process Example

- Agenda Item read.

Chairman Reads Agenda Item: “As authorized by the Oklahoma Open Meeting Act in Section 307(B)(1) of Title 25 of the Oklahoma Statutes, an executive session may be held for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee. Pursuant to this provision, the District proposes to hold an executive session for the purpose of discussing the annual review of the District Secretary and the possible raise increase for the District Secretary.”

- Vote by the District on whether to hold Executive Session. Before it can be held, the Executive Session must be authorized by a **majority vote** of a quorum of members present and such vote must be recorded in the minutes. Per 25 O.S. § 307(E)(2) of the Open Meetings Act

Chairman states: “Based on the information proposed for discussion in executive session, do I have any motions to enter into an executive session?” (Motions must be made and a vote taken in regular session before entering executive session)

- Designation of person to keep written minutes of Executive Session, if authorized.

Chairman states: “The District designates Board member Joseph Doe to keep written minutes of the Executive Session.” *(If any others are asked to attend then include this last sentence)* “The District also asks that Inola Dine and Jim Lime remain and attend the executive session.”

The Executive Session minute keeper needs to be writing down what happened and who was present

- Executive Session, if authorized.

Chairman directs all other persons in attendance to the public meeting to exit the room until the District returns to regular session

Chairman states: “The District now enters Executive Session at 10:37 a.m. on Monday, November 4, 2021.”

- Executive session discussion begins. **Votes CANNOT be taken in executive session.** When discussion ends – *Chairman invites the public back into the room and waits for them to re-enter and be seated.*
- The Board must vote to come out of executive session and those votes must be recorded publicly.
Chairman states: “Do I have any motions to return to regular session?” (Motions and votes made)
Chairman states: “The District has returned to Regular Session at 11:15 a.m. on Monday, November 4, 2021.”
- Commission votes on possible actions, if any, relating to the matters discussed in executive session or clarifies that there is no matter needing to be voted on by the District.
- Move on to next agenda item!

Executive Session Minute Guidance

These minutes are simply a written summary of the proceedings, not a word-for-word transcription

Executive Session minutes must:

- Provide an official summary of members present and absent
- List any additional attendees and their titles, if any
- List the Board’s designated minute taker
- Summarize all matters discussed by the Board
- Reference the start and ending times of the executive, and
- Be sealed and kept in a secure location in perpetuity

Regular Meeting Minute Guidance

Regular minutes must:

- Record that the agenda showed a proposed executive session for the agenda item to be discussed and the statutory authority for the executive session (See Section 311 B.2)
- Show a motion and recorded vote to go into executive session
- List all members absent and present for the session
- List any additional attendees with titles in the executive session
- List who was designated to take the executive session minutes
- State all matters discussed in regular session, if any
- Show the motion and recorded vote to return to regular session
- Show the motion and recorded vote for any actions taken on the issue(s) discussed in executive session

Please remember that writing “proposed executive session” on your agenda is NOT sufficient and is a violation of the Open Meetings Act (OMA). Your proposed executive session language must have the specific OMA requirements in it to be in compliance.