

EXECUTIVE SESSIONS/OPEN MEETINGS

Code **BEC** Issued **10/16**

Purpose: To establish the basic structure for conduct of executive sessions.

The board, by majority vote, may go into executive session for reasons provided for by law. Only upon request of the board may persons other than board members be present during executive sessions.

Before going into executive session, the board chairperson will put the question of whether to meet in executive session to a vote. If such vote is favorable, the chairperson will then announce the **specific** purpose of the executive session, i.e., identify the matter to be considered in executive session which will be reflected in the minutes.

As permitted by law, executive session matters may involve the following:

- individual student personnel actions
- individual staff personnel actions (unless the individual requests a public meeting)
- discussion of negotiations incident to proposed contractual arrangements
- acquisition or sale of property
- receipt of legal advice, including settlement of a claim
- security
- investigation of criminal misconduct

The board will not take any formal action in executive session. Formal action means a recorded vote committing the board to a specific course of action.

The board will not take a vote, nor will it poll members in executive session. A vote may be taken on any action discussed in executive session only after the board returns to open session. However, no action may be taken on an item discussed in executive session unless the meeting's agenda provides sufficient notice to the public that action may be taken on the topics discussed therein.

Under the state's open meeting laws, board members and other persons attending the executive session are duty bound not to discuss matters discussed in executive session. Board members or any other persons attending will not use tape recorders or any other means of sonic or video reproduction to record executive sessions. Additionally, board members will refrain from electronic communications during executive sessions on personal or district-owned devices, as communications regarding board matters are subject to disclosure.

Adopted 6/2/80; Revised 6/2/97, 11/5/12, 10/3/16

PAGE 2 – BEC – EXECUTIVE SESSION/OPEN MEETINGS

Legal references:

A. Section 30-4-70 of the S.C. Code, 1976, as amended:

1. A public body may hold a meeting closed to the public for one or more of the following reasons:
 - a. Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body; however, if an adversary hearing involving the employee or client is held, such employee or client has the right to demand that the hearing be conducted publicly. Nothing contained in this item shall prevent the public body, in its discretion, from deleting the names of the other employees or clients whose records are submitted for use at the hearing.
 - b. Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against said agency of a claim.
 - c. Discussion regarding the development of security personnel or devices.
 - d. Investigative proceedings regarding allegations of criminal misconduct.
 - e. Discussion of matters relating to the proposed location, expansion or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body.
 - f. Prior to going into executive session, the public agency shall vote in public on the question, and when such vote is favorable the presiding officer shall announce the specific purpose of the executive session. No formal action may be taken in executive session. As used in this item “formal action” means a recorded vote committing the body concerned to a specific course of action. No vote may be taken in executive session.
2. No chance meeting, social meeting or electronic communication may be used in circumvention of the spirit of requirements of this chapter to act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.
3. This chapter does not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised.
4. Sessions of the General Assembly may enter into executive session authorized by the Constitution of this state and rules adopted pursuant thereto.

B. S.C. Cases

1. Brock v. town of Mount Pleasant, 415 S.C. 625, 785 S.E. 2d 198 (2016).
2. Donohue v. city of North Augusta, 412 S.C. 526, 773 S.E. 2d 140 (2015)