

EXECUTIVE SESSIONS

The board of trustees may go into executive session for those reasons listed in the Open Meetings Act, according to Miss. Code §25-41-7. Nothing shall be construed to require that any meeting be closed to the public, nor shall any executive session be used to circumvent or defeat the purposes of the Open Meetings Law.

The stated reason for going into executive session and no other topic may be discussed in the session. If another topic needs to be discussed in the executive session other than the one first stated and the second is a legitimate topic for executive session discussion, then the board must come back into an open session and repeat the process as outlined below:

The Jackson Public School District Board of Trustees may enter into an executive session from an open meeting only, for the transaction of public business by the following procedures:

1. Any board member may request by motion a closed determination upon the issue of whether or not to declare an executive session. A second is not necessary. At this point, the meeting is to be temporarily closed, and the room closed.
2. If after a discussion of the reasons for going into an executive session, a motion is made, seconded, and approved by 3/5 of the members present, the president is to briefly reopen the meeting and announce publicly that the board is going into executive session and give the reasons therefor.
3. The meeting is then closed and in executive session.

PERMISSIBLE REASONS

Executive sessions shall be limited to the following matters, which are allowed to be exempted from open meetings:

Transaction of business and discussion of personnel matters relating to the job performance, character, professional competence, or physical or mental health of a person holding a specific position.

- a. Strategy sessions or negotiations concerning prospective litigation, litigation, or issuance of an appealable order when an open meeting would have a detrimental effect on the litigating position of the public body.
- b. Transaction of business and discussion regarding the report, development, or course of action regarding security personnel, plans, or devices.
- c. Investigative proceedings by any public body regarding allegations of misconduct or violation of the law.
- d. Any matter of the Legislature which is meeting on subjects within the jurisdiction of such body.
- e. Cases of extraordinary emergency that would pose immediate or irrevocable harm or damage to persons and/or property within the jurisdiction of such public body.

- f. Transaction of business and discussion regarding the prospective purchase, sale, or leasing of lands.
- g. Discussions between a school board and individual students who attend a school within the jurisdiction of such school board or the parents or teachers of such students regarding problems of such students or their parents or teachers.
- h. Transaction of business and discussion concerning the preparation of tests for admission to practice in recognized professions.
- i. Transaction of business and discussions or negotiations regarding the location, relocation, or expansion of a business or industry.
- j. Transaction of business and discussions regarding employment, termination of an employee, or job performance of a person in a specific position. The exemption provided in this paragraph includes the right to hold closed meetings concerning employees as such exemption relates to their deletion from any budget subject to the approval of the public body. Final budgetary adoption shall not be taken in executive session.
- k. Discussions regarding material or data exempt from the Mississippi Public Records Act of 1983 under Section 25-11-121.
- l. Investigative discussions, investigative strategies, probative strategies related to identifiable instances of human trafficking or commercial sexual exploitation, and discussions involving locations of shelters or safe-houses for victims of human trafficking or commercial sexual exploitation.
- m. Transaction of business of committees, subcommittees, or boards that would require discussion of any identifiable information of victims of human trafficking or children under eighteen years old who are victims of commercial sexual exploitation.

MINUTES

The minutes of the board must reflect that the board voted for a closed session, that a second motion was made, and that it was adopted for the specific reason or reasons to enter the executive session.

Minutes taken during the executive session must adhere to the same requirements as for regular board meetings. However, when the board deems it advisable to protect the personal identity of an employee or student, a numerical reference or other coding devices may be used in the minutes.

Section 25-41-11 of the Mississippi Code requires that minutes of all meetings, whether in open or executive session, of a public body include the following items:

- a. List of members present and absent.
- b. Date, time, and place of the meeting.
- c. An accurate recording of any final actions taken at the board meeting.
- d. A record, by an individual member of any votes taken.
- e. The inclusion or reflection of any other information that the board requests.

EXECUTIVE SESSION ATTENDANCE

An executive session shall be limited to matters allowed to be exempted from the open meetings requirement and shall apply to that particular meeting on that particular day.

The board may designate those persons it wishes to be present during an executive session. It is a matter of good practice for the superintendent to be present at all times unless there is a discussion of his/her compensation or an evaluation of his/her performance. When there is a discussion of personnel, pending litigation, or other such sensitive matters, the board should follow the advice of the school board attorney.

When there is a discussion of discipline or special needs of a child, attendance will be limited to the parent or legal guardian of the child. An attorney may represent the child or parent/guardian of a child. If an attorney is present as legal counsel, the attorney must state for recording in the minutes that he/she is representing the child or parent/guardian. Other school officials may be present to provide relevant information for the discussion.

ENFORCEMENT OF OPEN MEETINGS LAW

The Mississippi Ethics Commission shall have the authority to enforce the provisions of this chapter upon a complaint filed by any person. Upon receiving a complaint, the commission shall forward a copy of the complaint to the head of the public body involved. The public body shall have fourteen (14) days from receipt of the complaint to file a response with the commission. After receiving the response to the complaint or, if no response is received after fourteen (14) days, the commission, in its discretion, may dismiss the complaint or proceed by setting a hearing in accordance with rules and regulations promulgated by the Ethics Commission.

If the Ethics Commission finds that a member or members of a public body has willfully and knowingly violated the provisions of this chapter, the Ethics Commission may impose a civil penalty upon the individual members of the public body found to violate the provisions of this chapter in a sum not to exceed Five Hundred Dollars (\$500.00) for a first offense and One Thousand Dollard (\$1000.00) for a second or subsequent offense, plus all reasonable expenses incurred by the person or persons in bringing the complaint to enforce this chapter.

SOURCE: Jackson Public School District, Jackson, Mississippi; Mississippi School Board Association

LEGAL REF.: Miss. Code Ann. §§ 25-41-7 and 25-41-11; 2001 WL 334193, at *1 (Miss. A.G. Mar. 23, 2001); 2002 WL 321973, at *1 (Miss. A.G. Feb. 8, 2002).

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