

Board Meeting Guidelines

August 2008
Commonwealth of Massachusetts
Public Employee Retirement Administration Commission

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Commonwealth of Massachusetts

Public Employee Retirement Administration Commission

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Board Meeting Guidelines

The business of a retirement board is conducted at its meetings. The board meeting is the forum at which policy is established, issues are discussed, and actions are taken. The following board meeting guidelines are to be used in conjunction with the Open Meeting Law (Chapter 39 Section 23B), PERAC Regulations, and board bylaws.

As noted, there are certain minimum standards that must be met in the conduct of a retirement board meeting under the Massachusetts General Laws and regulations. In addition, there are other practices and procedures that are suggested to ensure that the meeting proceeds smoothly and that all board members are informed participants. This Guide will review both legal requirements and best practices.

Legal Standard

Section 23B of Chapter 39 of the General Laws is the “Open Meeting Law” applicable to retirement boards. The statute sets forth a number of requirements that are legally binding on all governmental bodies including retirement boards. Board meetings are public meetings and in implementing the Open Meeting Law this principle should be kept in mind, particularly when there appears to be a lack of clarity as to how to proceed. In short, it should be presumed that the public has a right to attend a meeting and also has a right to access records in the possession of the board.

Notice

Under the law, adequate notice must be filed by the retirement board at least forty-eight hours before the meeting. In calculating the forty-eight hours, Saturdays will be included but Sundays and legal holidays will not be included. In light of the fact that board meetings are generally scheduled on a regular monthly basis, it should be possible to provide this notice well before the forty-eight hour time frame.

Notice is accomplished by filing with the clerk of the city or town in which the meeting will take place and by arranging that the notice will be posted in the office of the clerk or on the principal official bulletin board of the city or town. The broadest possible dissemination of the notice is the best practice.

It should be noted that notice of a county, regional, or district retirement board meeting must be filed with the clerk of *each* city and town within the county, region, or district and arrangements must be made for the clerk to post the notice in his/her office or on the principal official bulletin board of the city or town.

The notice must be printed in easily readable type and must include the date, time, and place of the retirement board meeting.

The filing and posting of the meeting is the responsibility of the officer, generally the chairperson of the retirement board, who is calling the meeting.

Minutes

Under the Open Meeting Law, the retirement board must maintain an accurate written record of each meeting which includes the date, time, place, members present or absent, and action taken at each meeting, includ-

ing executive sessions. These items are a minimum and boards should ensure that the minutes reflect the tone and tenor of the meeting as well. The records of each meeting are a public record and are to be made available to the public.

Minutes are legal documents, not a record of opinions or incidental comments and discussions. In addition to the items noted above, the minutes should include a notation that the minutes of the previous meeting were approved; a notation of reports that were made and whether they were approved; a description of what items were discussed; all motions that were made; and the action of the retirement board with respect to those motions.

840 CMR 6.12 (1) provides that minutes and other records relative to board meetings are public records and must be available upon request. Pursuant to statute, the minutes and records of executive sessions may remain secret as long as disclosure may defeat the purpose for which the session was closed; however, those records are public once that is no longer the case.

840 CMR 6.12 (2) addresses the issue of making public records of executive sessions. It requires that boards periodically review such records and make a determination as to whether the records should remain secret. A decision must take place at a board meeting and be properly recorded in the minutes when previously secret executive session records or a portion of such records need no longer remain secret.

The agenda is a good starting point for the drafting of minutes. If the agenda is carefully constructed and adhered to by the retirement board chairperson it provides a guide to the minutes. This, in conjunction with recording and notes, should ensure that the minutes accurately reflect the meeting. It is advisable for the individual responsible for drafting the minutes to initiate that process as soon as possible after the meeting takes place while the event is still fresh in that person's memory.

A non-board member should take notes during the meeting and prepare the minutes. The minutes should include:

- (1) A list, by name, of who attended the meeting. It should be noted if anyone left or arrived during the meeting.
- (2) A copy of the agenda and any other material the board members received either before or during the meeting.
- (3) A summary of the members' discussions. The summary should document all of the various points considered by the board including references to any opposition.
- (4) The proper wording of any motions.
- (5) A record of the vote on each item. If the vote is by roll call, the identity of the members and whether they voted yes or no.
- (6) The time the meeting started and the time it adjourned.

Minutes should be content driven and agenda relevant. One approach is to take each item outlined in the agenda, provide a brief summary of the issue, record the various points of view, and then state the decision. The "ABC Rule" for taking minutes is Accuracy, Brevity, and Clarity.

Conflict of Interest

It is critical that the minutes reflect the declaration of anyone who stated that he/she has a conflict of interest with respect to an issue and how the retirement board handled the situation (recusal, leaving the room during the discussion, and the vote).

In situations that raise the possibility of a conflict of interest, board members may not participate in any discussion or vote on the relevant issue. Ordinarily, the best course of action is to leave the room during the deliberation and the vote of the retirement board.

Miscellaneous

The retirement board must allow a person in attendance to record the meeting by means of a tape recorder, or any other means of sonic reproduction, or by means of videotape equipment fixed in one or more locations, as long as the recording does not interfere with conducting the meeting.

Upon election or appointment to a retirement board, a member is to be provided with a copy of the Open Meeting Law by the city or town clerk. Each member must sign a written acknowledgment that he/she has been provided with such a copy. Annual dissemination of the law to all board members by the chairperson is the best practice.

Regulation

Beyond the requirements of statute, PERAC Regulations address the issue of board meetings. These regulations cover similar ground as the Open Meeting Law and, in addition, mandate that the retirement board take certain actions at a board meeting.

Best Practices

The retirement board, like all similar boards, is a group of individuals that ultimately speaks publicly with one voice. Each member must show respect for the other members and when possible, work toward consensus. No member should bring a hidden agenda to the table and members must share their knowledge with all members.

Agenda

As a basic principle, the success of any board meeting is largely dependant upon the amount and quality of the preparation for the meeting. The starting point is the development of an agenda. The agenda should be prepared with the goal of ensuring that the retirement board uses its time as efficiently as possible. Generally, the chairperson and executive director/board administrator should develop that agenda well in advance and other board members should be provided an opportunity to suggest items for the agenda prior to its finalization. One starting point is to prepare an annual calendar that outlines actions that recur each year to ensure that these items are included (approval of the annual report, budget, and investment manager meetings are some examples). Similarly, there are items that are routinely included each month such as approval of the minutes, approval of the warrant, and other matters. Thus, a template of regularly occurring items can be created and other issues can be added each month.

It is advisable to establish a schedule of board meetings in January in order that members can agree on dates. PERAC auditors review retirement board member attendance and findings result from excess absences. An agreed-upon schedule can take into account each member's needs and avoid such findings.

In setting the agenda, the chairperson should take into account the time needed for each item and the complexity of the material to be covered. Some advise that more contentious items be placed at the beginning of the agenda so that board members are not fatigued or concerned with other non-related matters as can be the case as the meeting progresses.

Board Package

Board members cannot meet their fiduciary duty unless they have sufficient information to make prudent decisions relative to retirement board matters. Again, an organizational session as part of the January meeting will engender discussion about the information needs of the members and how best to get that information to each member. The board counsel and other service providers should be consulted about what other information may be needed (for example, copies of draft legal opinions or DALA decisions, draft actuarial reports, and investment reports).

Agenda items should be reviewed to assess what materials should be sent that pertain to each item. Minutes of the previous meeting, the agenda, monthly financial reports, and the monthly warrant are some of the materials that should be in each board package.

Board packages must be sent to the members sufficiently ahead of the date of the meeting in order to give them adequate time to review information and request additional information before the meeting.

Motions that are to be considered can be prepared with the assistance of counsel and included in the board package to enable members to understand the actions to be taken and allow them to prepare amendments. Some of these will be routine such as approval of the previous meeting minutes. Others may be more complex and spaces can be left blank if necessary. For example – “Mr. ___ moves that _____ be hired to manage \$50 million in assets in an S&P 500 Index Fund. Ms. _____ seconds the motion.”

Discussions

The retirement board must take sufficient time to discuss matters at board meetings. The chairperson must work with the executive director/board administrator to set the agenda. Board members must be given the opportunity to add items to the agenda prior to its publication and distribution. An effective retirement board meeting begins with a short review of the agenda to ensure that adequate time has been allotted to each item and to change the order of business if necessary. The meeting should be limited to items on the previously prepared agenda unless two or more members present additional items and the chairperson approves the consideration of those items. Best practice is for the chairperson to stick to the prepared agenda.

The chairperson plays the crucial role in assuring that the meeting runs smoothly, stays on the agenda, and that all members' views are freely expressed and carefully considered. He/she must make sure that individual members do not monopolize the discussion. Group decision-making is the goal, not decision-making by one or two individuals. Each member also has a responsibility to speak concisely and avoid bringing up issues that are not relevant to the decision being made.

Discussions should be based on factual considerations and not assumptions. All information that would contribute to the members being sufficiently informed and prepared to assist in the making of good decisions should be shared with all members before the meeting, if possible.

Board Action

A motion for each retirement board action must be made; each motion must be seconded, and both actions noted in the minutes.

The law prohibits voting by secret ballot in open or executive session.

Every motion must be discussed and a vote must be taken.

Every retirement board action must be voted on. These include, but are not limited to:

- Authorizing the executive director/board administrator to perform ministerial duties: A definition of such authorization should include the specific areas in which the executive director/board administrator is authorized to act on behalf of the retirement board. However, the board may not authorize the executive director/board administrator to act in any decision-making area and improper authorization is a violation of the retirement board's fiduciary duty.
- All transfers of funds.
- Acceptance of an application for disability.
- Awarding a disability/denial of a disability.
- Granting of any retirement allowance.
- Hiring, monitoring, and terminating an investment custodian, consultant, manager, and any other investment service provider. Any action taken by the retirement board with respect to investment and its money manager(s) must be voted on. This includes explicit approval of each contract.
- Hiring, monitoring, and terminating attorneys, actuaries, accountants, and any other service provider. Any action taken with respect to the relationship between the retirement board and its service providers must be voted on. This includes explicit approval of each contract.
- All administrative expenses.
- Approval of all accounting records and a vote of acceptance. There should be no longer than a forty-five day lapse in acceptance of these records.
- Any personnel action related to retirement board staff – salaries, job descriptions, termination/discipline of staff.
- Travel (see below).
- Acceptance of previous board minutes.
- Appeal of a DALA/CRAB decision.
- All retirement board expenditures must be voted on by the board prior to payment.

This is not an exhaustive list. The rule of thumb should be that all matters that pertain to the fiduciary duty and statutory responsibilities of the board should be voted on.

Retirement Board Travel

840 CMR 2.03 governs the authorization by the retirement board for travel by members and staff. It requires that:

- (1) Travel and related expenses be approved by the board in advance of the travel.
- (2) Requests for travel by board members and/or the executive director/board administrator are to be placed on the agenda of a retirement board meeting, discussed in open session, and approved by a majority vote of the members present and voting.

- (3) The minutes must reflect the board action relative to travel requests and the extent of authorization.
- (4) The board member or the executive director/board administrator must provide a statement describing the presentation, conference, or seminar that he/she attended and that statement must be entered into the minutes of the meeting following the travel.

Although the regulations allow the board to authorize the executive director/board administrator to approve travel for other staff, best practice would dictate that at a minimum, the board is regularly informed of such approvals at a board meeting. Any such authorization should be made by vote of the board in open session.

Investments

PERAC Investment Regulations contain several mandatory actions which boards must take at meetings. These include:

- (1) Quarterly reviews of investment performance (840 CMR 16.07(1)).
- (2) Annual meetings with investment managers (840 CMR 16.07 (2)).
- (3) An annual determination that each investment manager continues to operate in the manner represented when the manager was hired and outlined in the agreement between the retirement board and the manager (840 CMR 16.07 (3)).
- (4) At five-year intervals the board must evaluate its consultant and, if it decides to do so, must receive authorization from PERAC to continue to retain its consultant.

Elections

Elections for board members are mandated by statute and require the retirement board to take several actions. A more detailed review of these procedures is presented in the booklet, *PERAC Guide – How to Run an Election*. The board must establish an election timetable by formal vote and also appoint an election officer in the same manner. In addition, the board must formally address aspects of the election such as the method of voting (by mail or in person) and certify the votes and the winner.

Executive Sessions

Executive sessions are allowed for the following purposes. Some of these are not applicable to the functions of a retirement board, but the list illustrates the strict limitation on the use of executive sessions:

- To discuss the reputation, character, physical condition, or mental health (rather than professional competency) of an individual (e.g. proceedings for disability retirement). The member must be given forty-eight hours written notice; however, he/she may waive the notice requirement. The meeting shall be in open session upon request of the member (see 840 CMR 10.21).
- To consider discipline or dismissal of a board employee. The employee must be given forty-eight hours written notice; however, he/she may waive the notice requirement. The meeting shall be in open session upon request of the employee involved.
- To discuss strategy for collective bargaining in certain circumstances. Collective bargaining sessions may be held in executive session.
- To discuss the deployment of security personnel or devices.
- To investigate charges of criminal misconduct or to discuss the filing of criminal charges.
- To discuss the purchase, exchange, lease, or value of real property if the discussions would have a detri-

- mental effect on the retirement board or any person, firm, or corporation.
- To comply with any general or special law or federal grant-in-aid requirement.

Convening an Executive Session

A retirement board must convene an open meeting for which notice has been given.

A majority of the board members must vote to go into executive session. There must be a roll call vote with each member's vote recorded and entered into the minutes of the meeting. In addition, the law requires all votes in executive session to take place by roll call.

The chairperson must state the purpose of the executive session and the statutory provisions under which it has been called (e.g. "to investigate charges of criminal misconduct").

Before the executive session, the chairperson must state whether the board will re-convene after the executive session.

Questions

A retirement board member wants to add an agenda item. Must that item be added by the chairperson?

The chairperson sets the agenda. He/she takes suggestions from the other board members. At the same time, it is the board's agenda. In some instances, boards vote to approve the agenda at the beginning of each meeting. This is the time when items may be deleted or added by a majority vote. If this is not the process, a member may make a motion to add or delete an item on the current agenda or have an item added to a future agenda. A motion must be made, seconded, discussed, and voted on. If a second is not obtained, or the majority does not support the motion, the item will not be added or deleted and the member(s) in favor have reached the limit of their recourse.

How can motions and amendments be clear so that all retirement board members as well as the public can understand what the board is voting on?

It is good practice to draft motions that are expected to be taken up before the meeting so that, at least at the outset, all are clear as to the vote. This is particularly advisable with routine matters that the board votes on every meeting.

Multiple amendments, retractions, and attempts to amend can be extremely confusing.

The chairperson should first accept the main motion, ask for a second, and then clearly restate the motion. Once seconded, the motion belongs to the entire board and can only be amended by vote of the board. In other words, five minutes into the discussion the original maker of the motion cannot say, "Oh wait, I want to change my motion to ..." and have that become the motion.

Anytime before a final vote on the motion, it can be amended by any member of the retirement board (including the original maker of the motion) as long as two conditions are met:

- (1) The motion must be directly related to the main motion ("germane") &
- (2) The amendment must be seconded by another board member.

When the motion to amend is made and seconded, the board must deal with the amendment before dealing with the main motion. The chairperson must keep everyone on the topic of the amendment. If a member begins to comment on the main motion, the chairperson should rule him/her in or out of order immediately. After debate, the chairperson must call for a vote on the amendment. If it passes, the chairperson must restate the motion as amended and open it up to for debate. If the amendment fails, the chairperson states the motion as originally worded and the board debates the main motion.

Once the board is back on the main motion, that motion can be amended and the cycle begins again until the main motion is finally voted.

While it is possible and allowable under Robert's Rules to have amendments of the second rank (also known as amendments to amendments), any board suffering confusion about motions and amendments is best advised to stick to one amendment at a time.

If the board allows only one amendment at a time, and the chairperson clearly states the full language of the motion, or motion to amend, before and after each vote, confusion can be minimized.

Appendix

Chapter 39: Section 23B. Open Meetings of Governmental Bodies

Section 23B. All meetings of a governmental body shall be open to the public and any person shall be permitted to attend any meeting except as otherwise provided by this section.

No quorum of a governmental body shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as provided by this section.

No executive session shall be held until the governmental body has first convened in an open session for which notice has been given, a majority of the members have voted to go into executive session and the vote of each member is recorded on a roll call vote and entered into the minutes, the presiding officer has cited the purpose for an executive session, and the presiding officer has stated before the executive session if the governmental body will reconvene after the executive session.

Nothing except the limitation contained in this section shall be construed to prevent the governmental body from holding an executive session after an open meeting has been convened and a recorded vote has been taken to hold an executive session. Executive sessions may be held only for the following purposes:

- (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:
 - (a) to be present at such executive session during discussions or considerations which involve that individual.
 - (b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.
 - (c) to speak in his own behalf.

- (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:
 - (a) to be present at such executive session during discussions or considerations which involve that individual.
 - (b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.
 - (c) to speak in his own behalf.
- (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with nonunion personnel, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.
- (4) To discuss the deployment of security personnel or devices.
- (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- (6) To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.
- (7) To comply with the provisions of any general or special law or federal grant-in-aid requirements.
- (8) To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.
- (9) To meet or confer with a mediator, as defined in section twenty-three C of chapter two hundred and thirty-three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that: (a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and (b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice as may be required in this section.

This section shall not apply to any chance meeting, or a social meeting at which matters relating to official business are discussed so long as no final agreement is reached. No chance meeting or social meeting shall be used in circumvention of the spirit or requirements of this section to discuss or act upon a matter over which the governmental body has supervision, control, jurisdiction or advisory power.

Except in an emergency, a notice of every meeting of any governmental body shall be filed with the clerk of the city or town in which the body acts, and the notice or a copy thereof shall, at least forty-eight hours, including Saturdays but not Sundays and legal holidays, prior to such meeting, be publicly posted in the office of such clerk or on the principal official bulletin board of such city or town. The secretary of a regional school

district committee shall be considered to be its clerk and he shall file the notice of meetings of the committee with the clerk of each city or town within such district and each such clerk shall post the notice in his office or on the principal official bulletin board of the city or town and such secretary shall post such notice in his office or on the principal official bulletin board of the district. If the meeting shall be of a regional or district governmental body, the officer calling the meeting shall file the notice thereof with the clerk of each city and town within such region or district, and each such clerk shall post the notice in his office or on the principal official bulletin board of the city or town. The notice shall be printed in easily readable type and shall contain the date, time and place of such meeting. Such filing and posting shall be the responsibility of the officer calling such meeting.

A governmental body shall maintain accurate records of its meetings, setting forth the date, time, place, members present or absent and action taken at each meeting, including executive sessions. The records of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer. All votes taken in executive sessions shall be recorded roll call votes and shall become a part of the record of said executive sessions. No votes taken in open session shall be by secret ballot.

A meeting of a governmental body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction or by means of videotape equipment fixed in one or more designated locations determined by the governmental body except when a meeting is held in executive session; provided, that in such recording there is no active interference with the conduct of the meeting.

Upon qualification for office following an appointment or election to a governmental body, as defined in this section, the member shall be furnished by the city or town clerk with a copy of this section. Each such member shall sign a written acknowledgement that he has been provided with such a copy.

The district attorney of the county in which the violation occurred shall enforce the provisions of this section.

Upon proof of failure by any governmental body or by any member or officer thereof to carry out any of the provisions for public notice or meetings, for holding open meetings, or for maintaining public records thereof, any justice of the supreme judicial court or the superior court sitting within and for the county in which such governmental body acts shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out such provisions at future meetings. Such order may be sought by complaint of three or more registered voters, by the attorney general, or by the district attorney of the county in which the city or town is located. The order of notice on the complaint shall be returnable no later than ten days after the filing thereof and the complaint shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of this section. In the hearing of such complaints the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by section eleven A 1/2 of chapter thirty A, by section nine G of chapter thirty-four or by this section. All processes may be issued from the clerk's office in the county in which the action is brought and, except as aforesaid, shall be returnable as the court orders.

Such order may invalidate any action taken at any meeting at which any provision of this section has been violated, provided that such complaint is filed within twenty-one days of the date when such action is made public.

Any such order may also, when appropriate, require the records of any such meeting to be made public, un-

less it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized. The remedy created hereby is not exclusive, but shall be in addition to every other available remedy. Such order may also include reinstatement without loss of compensation, seniority, tenure or other benefits for any employee discharged at a meeting or hearing held in violation of the provisions of this section.

Such order may also include a civil fine against the governmental body in an amount no greater than one thousand dollars for each meeting held in violation of this section.

The rights of an individual set forth in this section relative to his appearance before a meeting in an executive or open session, are in addition to the rights that an individual may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements, and the exercise or nonexercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

840 CMR: Public Employee Retirement Administration Commission

6.12: Records of Retirement Board Meeting

- (1) The minutes and other records of each retirement board meeting shall be a public record and shall be available upon request as provided herein; provided, however, that the records of any executive session may remain secret as long as disclosure may defeat the lawful purposes for which the session was closed, but no longer.
- (2) The retirement board shall periodically review its records of executive sessions to determine whether such records must remain secret. When the retirement board decides that a previously secret executive session record or portion thereof need no longer remain secret, it shall note such decision in the minutes of the retirement board meeting at which such decision is made.

Public Employee Retirement Administration Commission

Policy Number 97 - 003

Executive Sessions

The Public Employee Retirement Administration Commission (PERAC) must perform its oversight and management of affairs in an efficient and effective manner compliant with Commonwealth laws, regulations and generally accepted operating procedures consistent with the public purpose for the Commission's creation. The Commission therefor establishes this policy to further its efforts in providing the appropriate level of authority and responsibility over the staff and issues coming before it.

The Commission recognizes that there will be times where the Commission must deal with a sensitive issue that must be discussed away from direct public exposure. While these occurrences will be the exception, the Commission in accordance with G.L. c.30A hereby establishes this procedure to formalize the process it will use in these situations.

No executive session shall be held until the governmental body has first convened in an open session for which notice has been given.

A majority of the members is recorded in attendance and entered in the minutes of the open meeting.

The vote of each member is recorded and entered in the minutes of the open meeting.

The Chair of the Commission must cite the purpose for the executive session.

The Chair of the Commission must state before the executive session whether the Commission will reconvene in open session after the executive session.

Executive sessions may be held only for the following purposes:

- (1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual, provided that the individual to be discussed in such executive session has been notified in writing by the governmental body, at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. The governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:
 - (a) to be present at such executive session during discussions or considerations which involve that individual.
 - (b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.
 - (c) to speak in his own behalf.
- (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. The governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the rights outlined in (1) above.
- (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, and to conduct collective bargaining sessions.
- (4) To discuss the deployment of security personnel or devices.
- (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
- (6) To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.
- (7) To comply with the provisions of any general or special law or federal grant-in-aid requirements.

A record or minutes of executive sessions shall also be maintained. The records of an executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer.

No votes taken in executive session or open session shall be by secret ballot.

All votes taken in executive sessions shall be recorded and shall become a part of the record of the executive session.

Adopted at Commission meeting on May 27, 1997.

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