

Public Body Checklist for Entering Into Executive Session

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- ☐ Executive session listed as a topic for discussion on meeting notice, including as much detail about the purpose for the executive session as possible without compromising the purpose for which it is called. See G.L. c. 30A, § 20(b); 940 CMR 29.03(1)(b).
- ☐ Public body convened in open session first. G.L. c. 30A, § 21(b)(1).
- ☐ Chair publicly announced the purpose for executive session, citing one or more of the 10 purposes found at G.L. c. 30A, § 21(a).
- ☐ Chair stated all subjects that may be revealed without compromising the purpose for which the executive session was called. G.L. c. 30A, § 21(b)(3). For example, the Chair identified the party a public body may be negotiating with or the litigation matter the public body will be discussing.
- ☐ Chair stated whether the public body will adjourn from the executive session, or will reconvene in open session after the executive session. G.L. c. 30A, § 21(b)(4).
- ☐ For Executive Session Purposes 3, 6, and 8:
 - ☐ Chair publicly stated the having the discussion in open session would have a detrimental effect on the public body's negotiating position, bargaining position, litigating position, or ability to obtain qualified applicants. G.L. c. 30A, §§ 21(a)(3), (6), (8).
- ☐ A majority of members of the body voted by roll-call to enter into executive session. G.L. c. 30A, § 21(b)(2).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

Town of Paxton

Reasons for Convening Executive Session (MGL C30a Sec. 21 Effective July 1, 2010)

A public body may meet in executive session only for the following purposes:

- (1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. **(See Rights of Individual on reverse)**
- (2) To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.
- (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 public body and the chair so declares,
- (4) To discuss the deployment of security personnel or devices, or strategies with respect thereto.
- (5) To investigate charges of criminal misconduct or to consider the filing of criminal complaints.
- (6) To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.
- (7) To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.
- (8) To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that 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, to consider and interview applicants who have passed a prior preliminary screening.
- (9) To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session
- (10) To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

Procedures for Convening Executive Session

A public body may meet in closed session for 1 or more of the purposes as outlined overleaf provided that:

1. The Meeting must be first convened in an open posted session, with executive session listed on the agenda when reasonable anticipated by the chair.
2. Before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called.
3. A majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes.
4. The chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session.
5. 5. Accurate records of the executive session shall be maintained and all votes recorded by roll cal.

Rights of Individual

If an executive session is held, such individual shall have the following rights:

1. To be present at such executive session during deliberations which involve that individual.
2. To have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session.
3. To speak on his own behalf.
4. The individual may have an independent record of the executive session created by audio recording or transcription at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.