

Courtesy of The City Solicitors and Town Counsel Association

**REMEMBER, YOU MUST 1. ALREADY BE IN OPEN SESSION; 2. USE ROLL CALL VOTE TO GO INTO EXECUTIVE SESSION, SPECIFYING THE SPECIFIC REASON OR REASONS (SEE BELOW); AND 3. SPECIFY IF YOU INTEND TO RECONVENE IN OPEN SESSION.**

Note: Listed are suggested motions for each of the exceptions to the Open Meeting Law. You can of course edit them to suit the occasion. You can combine more than one exception if applicable. Highlighted are the beginning of the pertinent parts of each suggested motion by "shadowing" the word "to", so that if you do combine reasons, all you need to do is to include the portion of the suggested motions beginning with the highlighted word "to". Also similarly highlighted in "shadow" are the four most frequently used exceptions for Executive Session. Accurate minutes are to be kept and maintained of all meetings, including Executive Sessions. The law requires that the minutes are to set forth: (a)- the date; (b)- the time); (c) - the place; (d)- the members present or absent; (e) the actions taken at the meeting; and for executive sessions, (f) - the votes, by recorded roll call votes.

**Exception 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 48 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 discussion 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.

***Suggested Motion- Move to go into Executive Session to discuss the reputation, character, physical condition or mental health of an individual, and to reconvene in Open Session.***

**Exception 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 48 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.

***Suggested Motion- Move to go into Executive Session to consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual and to reconvene in Open Session.***

**Exception 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.**

***Suggested Motion- Move to go into Executive Session to discuss strategy with respect to collective bargaining, and to reconvene in Open Session.***

***Suggested Motion- Move to go into Executive Session to discuss strategy with respect to litigation, and to reconvene in Open Session.***

***Suggested Motion- Move to go into Executive Session to conduct strategy sessions in preparation for negotiations with nonunion personnel, and to reconvene in Open Session.***

***Suggested Motion- Move to go into Executive Session to conduct collective bargaining sessions, and to reconvene in Open Session.***

***Suggested Motion- Move to go into Executive Session to conduct collective bargaining sessions or contract negotiations with nonunion personnel, and to reconvene in Open Session.***

Exception 4. **To discuss the deployment of security personnel or devices.**

***Suggested Motion- Move to go into Executive Session to discuss the deployment of security personnel or devices, and to reconvene in Open Session.***

Exception 5. **To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.**

***Suggested Motion- Move to go into Executive Session to investigate charges of criminal misconduct or to discuss the filing of criminal complaints, and to reconvene in Open Session.***

Exception 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.

***Suggested Motion- Move to go into Executive Session to consider the purchase, exchange, lease or value of real property, and to reconvene in Open Session.***

Exception 7. **To comply with the provisions of any general or special law or federal grant-in-aid requirements.**

***Suggested Motion- Move to go into Executive Session to comply with the provisions of [specify the law or grant-in-aid requirement applicable], and to reconvene in Open Session.***

Exception 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. **[Note: The motion for this exemption can only be made by the preliminary screening committee or subcommittee. The preliminary screening committee may wish to go into Executive Session to consider the applications or interview people or both; you can adapt the motion to serve your needs.]**

***Suggested Motion- Move to go into Executive Session to consider [and if applicable-] and interview applicants for employment, and to reconvene in Open Session.***

Exception 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 may be required in this section.

***Suggested Motion- Move to go into Executive Session to meet or confer with a mediator and to reconvene in Open Session.***

***This material is provided as general information. Other legal requirements may be applicable to a particular situation. The law encourages meetings to be in open as much as possible. These exceptions to open meetings should only be used when necessary. Should a specific situation arise, you should be sure to discuss same with your municipal legal counsel.***

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