

Policy BEC-E - EXECUTIVE SESSION LAW

- I. To enter Executive Session, a Board must:
 - A. Start with a public meeting;
 - B. Have a public recorded vote of 3/5ths of members present and voting; and
 - C. State the precise nature of business in motion to enter executive session. The nature of each matter must be stated if more than one.

- II. Restrictions During Executive Session:
 - A. Only matters stated in the motion may be considered;
 - B. No official actions shall be finally approved; and
 - C. No public record shall be kept.

- III. Items Which May Be Discussed In Executive Session:
 - A. Discussion or consideration of employment, appointment, assignment, duties, compensation, evaluation, resignation, disciplining, promotion, demotion or dismissal of public officials, appointees or employees or the investigation of charges or complaints against persons, subject to the following conditions:
 1. Only when public discussion could be reasonably expected to cause damage to the reputation or violate the individual's right to privacy;
 2. Person charged or investigated has right to be present;
 3. Person charged or investigated may request in writing that the investigation be conducted in open session. Such requests must be honored; and
 4. Any person bringing charges shall be permitted to be present (does not specify participation).
 5. Discussion or consideration of suspension or expulsion of a student, the cost of whose education is paid from public funds. The student and legal counsel (and parents or guardian if student is a minor) shall be permitted to be present if student, parents or guardian so desire.
 6. Discussion or consideration of the condition, acquisition or the use of real or personal property only if premature disclosure would prejudice the bargaining position of the body or agency.
 7. Board discussion of labor contracts and proposals and meetings may be held in executive session. (Negotiations between the representatives of a public employer and public employees are closed unless opened by agreement of both parties.)
 8. Consultations between a body or agency and its attorney concerning legal rights, pending litigation, and settlement offers, when premature public knowledge would give the Board substantial advantage.
 - B. Discussion of records made, maintained or received by the body or agency, or when access by the general public is prohibited by statute.

IV. To go into executive session to consider the [Reason for Executive Session] pursuant to [Citation].

Reason for Executive Session / Statutory Citation / Explanation (Applies To)

Acquisition of property [1 M.R.S.A. § 405 (6)(C)]:

Real or personal property attached to real property or interests therein if premature disclosure would prejudice competitive or bargaining position of the school unit

Appointment of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Assignment of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Compensation of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Condition of property [1 M.R.S.A. § 405 (6)(C)]:

Real or personal property attached to real property or interests therein if premature disclosure would prejudice competitive or bargaining position of school unit

Demotion of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Disciplining of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Dismissal of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Disposition of Property [1 M.R.S.A. § 405 (6)(C)]:

Publicly held property only if premature disclosure would prejudice competitive or bargaining position of school unit

Duties of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Economic Development [1 M.R.S.A. § 405 (6)(C)]:

Discussion generally only if premature disclosure would prejudice competitive or bargaining position of school unit

Employment of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Evaluation of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Expulsion of students [1 M.R.S.A. § 405 (6)(B)]:

Public school students or students at private schools where tuition is paid with public funds

Hearing of charges against a person or persons [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees, employees or other persons if public discussion could damage reputation or violate right to privacy

Hearing of complaints against a person or persons [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees, employees, or other persons if public discussion could damage reputation or violate right to privacy

Information in confidential records; discussion or review of [1 M.R.S.A. § 405 (6)(F)]:

Records made, maintained or received by school unit to which public access is prohibited by statute or regulation

Investigation of charges against a person or persons [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees employees or other persons if public discussion could damage reputation or violate right of privacy

Investigation of complaints against a person or persons [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees, employees or other persons if public discussion could damage reputation or violate right to privacy

Labor contract discussions [parties must be named] [1 M.R.S.A. § 405 (6)(D)]:

Public employer and its negotiators

Labor contract meetings [parties must be named] [1 M.R.S.A. § 405 (6)(D)]:

Public employer and its negotiators

Labor contract negotiations [1 M.R.S.A. § 405 (6)(D)]:

Negotiations if parties have not agreed to open sessions

Labor contract proposal discussions [parties must be named] [1 M.R.S.A. § 405 (6)(D)]:

Public employer and its negotiations

Legal rights and duties of school unit; discussion of [1 M.R.S.A. § 405 (6)(E)]:

Consultations between school unit and its attorney

Litigation, pending or contemplated; discussion of [1 M.R.S.A. § 405 (6)(E)]:

Consultations between school unit and its attorney

Matters where duties of legal counsel to client under code of professional responsibility conflict with statute or where premature disclosure would disadvantage school unit; discussion of [1 M.R.S.A. § 405 (6)(E)]:

Consultations between school unit and its attorney

Negotiations between Public Employer and Public Employees [1 M.R.S.A. § 405 (6)(D)]:

Labor negotiations if parties have not agreed to open sessions

Nonrenewal of teachers [20-A M.R.S.A. § 13201]

Public school teachers

Promotion of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Resignation of officials / appointees / employees [1 M.R.S.A. § 405 (6)(A)]:

Public officials, appointees or employees if public discussion could damage reputation or violate right to privacy

Settlement offers [1 M.R.S.A. § 405 (6)(E)]:

Consultations between school unit and its attorney

Suspension of students [1 M.R.S.A. § 405 (6)(B)]:

Public school students or students at private schools where tuition is paid with public funds

Use of Property [1 M.R.S.A. § 405 (6)(C)]:

Real or personal property attached to real property or interests therein if premature disclosure would prejudice competitive or bargaining position of school unit

Legal Reference:

Title I MRSA, Sec. 405

Cross Reference:

BEC - Executive Sessions

FIRST READING: 04/29/15

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