

Overview

The Colorado Open Meetings Law is meant to ensure that the formation of public policy is public business and not conducted in secret. This legislation applies to any local public body, including charter school boards. The following FAQs provide information about how the Open Meetings Law applies to charter school boards.

When is a charter school board required to make its meetings open to the public?

A meeting must be open to the public if (1) it is attended by three or more members of a charter school board or a quorum of the board, whichever is fewer, and (2) any public business is discussed or any formal action is taken. For purposes of this law, the definition of a “meeting” includes any kind of gathering, in person, by telephone, electronically, or by other means of communication.

When is a charter school board required to provide notice before a meeting?

In addition to making its meeting open to the public, a charter school board must provide full and timely notice of any meeting in which (1) the board adopts any proposed policy, position, resolution, rule, regulation, or formal action or (2) a majority or quorum of the board in its attendance, or is expected to be in attendance.

What does “full and timely notice” entail?

In addition to any other means of full and timely notice, the Colorado Open Meetings Law requires charter school boards to post notice of their meetings in a designated public place within the boundaries of the local public body no less than 24 hours prior to the holding of such meeting. The public place(s) for posting such notice must be designated annually at the board’s first regular meeting of each calendar year. The posting must include specific agenda information, where possible.

The board secretary must maintain a list of individuals who, within the last 2 years, have requested notification of all meetings or of meetings when certain specified policies will be discussed. The secretary must provide reasonable advance notification of such meetings to these individuals.

What are the requirements for meeting minutes?

At any board meeting at which the board adopts any proposed policy, position, resolution, rule, or regulation or at which formal action occurs or could occur, minutes must be taken and promptly

recorded. Such records must be open to public inspection. For a meeting during which an executive session is held, the minutes must reflect the topic of the discussion at the executive session.

What is an executive session?

An executive session is a portion of a regular or special meeting in which the board may consider sensitive issues in privacy. No adoption of any proposed policy, position, resolution, rule, regulation, or formal action (except for the review, approval and amendment of the minutes of an executive session) may occur at any executive session that is not open to the public.

What are the permissible topics for an executive session?

A board may consider any of the following matters during an executive session:

- The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property, except an executive session may not be held to conceal the fact that a board member has a personal interest in such property;
- Conferences with an attorney for the charter school for the purpose of receiving legal advice on specific legal questions (though mere presence of the attorney at an executive session is not sufficient);
- Matters required to be kept confidential by federal or state law or rules and regulations (which statutes or rules must be specifically announced before the holding of an executive session);
- Security arrangements or investigations;
- Determining positions related to topics of negotiation, developing a strategy for negotiations, and instructing negotiations;
- Personnel matters, except if the employee or employees who are the subject of the session have requested an open meeting (though executive sessions may not be held to discuss board members or the appointment of a person to fill a board vacancy or discussions of policies that do not require discussion of matters personal to particular employees);
- Consideration of documents protected from disclosure under the Colorado Open Records Act; and
- Discussion of individual students, where public disclosure would adversely affect the person(s) involved.

How does a board enter into an executive session?

The board must announce the topic of discussion for the executive session, provide a specific citation to the provision of the statute that authorizes the board to meet in an executive session, and identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized. Before entering an executive session, the board must have an affirmative vote of two-thirds of the quorum present.

What are the requirements for recording an executive session?

Discussions that occur in an executive session must be electronically recorded and retained for at least 90 days. Generally, the electronic recording of the session must reflect the specific citation to the section of statute that authorizes the board to meet in an executive session and the actual contents of the discussion during the session. This requirement does not apply to discussions of individual students. If, in the opinion of the attorney who is representing the board and who is in attendance at a meeting that has been properly noticed, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no record is required to be kept for the part of the discussion that constitutes a privileged attorney-client communication. The electronic recording must reflect that no further record was kept of the discussion based on the opinion of the board's attorney that the discussion constituted privileged attorney-client communication or the attorney may provide a signed statement attesting that, in the attorney's opinion, the portion of the executive session that was not recorded constituted a privileged attorney-client communication.

When are recordings of an executive session open to public inspection?

No portion of the recording of an executive session is open for public inspection or subject to discovery in any administrative or judicial proceeding except if the local board has consented and under certain circumstances specified by statute (in sections 24-6-402(2)(d.5)(II)(C) and 24-72-204(5.5), C.R.S.).