

OSBA Model Sample ESD Policy

Code: BDC
Adopted:

Executive Sessions

The Board may meet in executive session to discuss subjects allowed by statute under Oregon Revised Statute (ORS) 192.660 but may not take final action in executive session.

An executive session may be included as an agenda item of a meeting open to the public in accordance with Board policy BDDC - Board Meeting Agenda or held as its own meeting. Public notice is required as outlined in Board policy BD – Board Meetings, Notices and Communications.

If an executive session is held as part of a meeting open to the public, the Board chair will announce the executive session in compliance with Board policy BD – Board Meetings, Notices and Communications and include and identify the appropriate statutory citation, appropriate subsection and the paragraph authorizing the session under ORS 192.660 for holding such session and by noting the general subject of the executive session.

Example:

“The Board will now meet in executive session under ORS 192.660(2)(a) to consider the employment of a public officer, employee, staff member or individual agent.”

Prior to or at the beginning of the executive session, the Board chair may read the following¹:

“Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.”

The Board may hold an executive session:

1. To consider the employment of a public officer, employee, staff member or individual agent; may not include a discussion or negotiation of compensation (including salaries and benefits).²

¹ This statement should be amended if ORS 192.660 does not require that representatives of the news media be allowed to attend, or the Board will not be returning to open session following the executive session. This statement can also be included on the agenda.

² This provision does not apply to the filling of a vacancy in elective office or on any public committee, commission or other advisory group; or for the consideration of general employment policies. It also does not apply to the employment of the chief executive officer, other public officers, employees and staff members of the ESD unless:

- a. The vacancy has been advertised;
- b. Regular hiring procedures have been adopted;
- c. If hiring an officer, the public has had the opportunity to comment on the employment of the officer; and

(ORS 192.660(2)(a))

2. To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer³, employee, staff member or individual agent who does not request an open hearing⁴; may not include a discussion or negotiation of compensation (including salaries and benefits). (ORS 192.660(2)(b))
3. To conduct deliberations with persons designated by the governing body to carry on labor negotiations. (ORS 192.660(2)(d))
4. To conduct deliberations with persons designated by the governing body to negotiate real property transactions. (ORS 192.660(2)(e))
5. To consider information or records that are exempt by law from public inspection.⁵ (ORS 192.660(2)(f))
6. To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.⁶ (ORS 192.660(2)(h))
7. To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing⁷; may not include a discussion or negotiation of compensation (including salaries and benefits or a general

d. If hiring a chief executive officer, the Board has adopted hiring standards, criteria and policy directives in meetings open to the public in which the public has had the opportunity to comment on the standards, criteria and policy directives.

³ To determine whether the individual involved is considered a public officer, consult with legal counsel.

⁴ Notice must be provided to the public officer, employee, staff member or individual agent in accordance with OAR 199-0040-0030. The public official must receive written notice of the meeting no less than one business day or 24 hours, whichever is greater, in advance of the meeting. The notice must include:

- a. Identification of the governing body before which the matter will be considered (the Board);
- b. The time, date and location of the meeting;
- c. The purpose for which the governing body proposes to convene the executive session, including the citation to the applicable section of ORS 192.660 and the fact that the governing body will be considering the dismissal or disciplining of, hearing complaints or charges against, or reviewing and evaluating the performance of the public official receiving the notice; and
- d. Information on how the public official may make a request for an open hearing.

⁵ Consider including a reference to the law that exempts the information or records from public inspection in the notice.

⁶ Legal counsel must be present in the executive session, either in-person or via electronic or telephonic communications.

⁷ Notice must be provided to the chief executive officer, public officer, employee or staff member in accordance with OAR 199-0040-0030. The public official must receive written notice of the meeting no less than one business day or 24 hours, whichever is greater, in advance of the meeting. The notice must include:

- a. Identification of the governing body before which the matter will be considered (the Board);
- b. The time, date and location of the meeting;
- c. The purpose for which the governing body proposes to convene the executive session, including the citation to the applicable section of ORS 192.660 and the fact that the governing body will be considering the dismissal or disciplining of, hearing complaints or charges against, or reviewing and evaluating the performance of the public official receiving the notice; and
- d. Information on how the public official may make a request for an open hearing.

evaluation of an agency, goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs.

(ORS 192.660(2)(i))

8. To consider matters relating to school safety or a plan that responds to safety threats made toward a school. (ORS 192.660(2)(k))
9. To consider matters relating to the safety of the governing body and of public body staff and volunteers and the security of public body facilities and meeting spaces. (ORS 192.660(2)(o))
10. To consider matters relating to cyber security infrastructure and responses to cyber security threats. (ORS 192.660(2)(p))

Members of the press may attend executive sessions except those matters pertaining to:

1. Deliberations with persons designated by the Board to carry on labor negotiations;
2. Hearings on the expulsion of a minor student or examination of the confidential records of a student; and
3. Current litigation or litigation likely to be filed if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

Recordings or minutes shall be kept for all executive sessions in accordance with state law and Board policy – BDDG – Recordings and Minutes of Board Meetings.

Content discussed in executive sessions and recordings or minutes for executive sessions are confidential except as provided by law. Board members, district employees and the media are instructed not to disclose information obtained in executive session except when specifically authorized to do so or as required or allowed by law.

END OF POLICY

Legal Reference(s):

[ORS 192.660](#)
[ORS 192.685](#)
[ORS 192.705](#)

[OAR 199-040-0015 - 0060](#)
[OAR 199-050-0015](#)
[OAR 199-050-0040](#)

[OAR 199-050-0050](#)
[OAR 199-050-0060](#)

OR. ATTY. GEN. *Public Records and Meetings Manual*.

OREGON GOVERNMENT ETHICS COMMISSION, [Staff Advisory Opinion](#) No. 22-106S