



EXECUTIVE SESSION GUIDANCE FOR BOARDS CONDUCTING A SUPERINTENDENT SEARCH

This guidance is for boards of education conducting a superintendent search. Please refer to the CASB guidance titled “*Executive Session Guidance for Superintendent Search Committees*” if the board establishes a search committee.

This guidance provides sample language for informational purposes only and does not constitute legal advice. The board should consult with the school district’s legal counsel if issues or questions arise.

Step 1: Convene an open meeting pursuant to the Open Meetings Law.

Never hold an executive session without first convening in open session. Comply with all public notice requirements.

Make a recording of the open meeting because state law requires the board to record any regular or special meeting at which votes are taken and recorded. Keep the recording for at least 90 days.

Step 2: Make the motion.

Sample language:

Example 1: “I move that the board of education convene in executive session pursuant to Colorado Revised Statute § 24-6-402(4)(g) to discuss documents made confidential by Colorado’s Open Records Act. The particular matter for discussion is the content of applications and supporting documents for superintendent candidates who are not yet finalists as defined by Colorado Revised Statute § 24-72-204(3)(a)(XI)(A).”

Example 2: “I move that the board of education convene in executive session pursuant to Colorado Revised Statute § 24-6-402(4)(i) to discuss negotiations concerning the terms of an employment contract [including the necessary process to prioritize candidates, for the purposes of negotiation] with [name of finalist(s)]. The board has named more than one candidate as a finalist and held a forum open



to the public to conduct interviews with each of the finalists on [date(s)].”

Example 3: *“I move that the board of education convene in executive session pursuant to Colorado Revised Statute § 24-6-402(4)(i)(II) to interview [name of finalist]. The board has named more than one candidate as a finalist and held a forum open to the public to conduct interviews with each of the finalists on [date(s)].”*

Step 3: Discuss the motion.

Discuss the motion during open session, providing any board member with the opportunity to object to the validity of conducting an executive session for this purpose.

Step 4: Vote on the motion.

Convening an executive session requires the affirmative vote of two-thirds of the quorum present.

Call each board member’s name in alphabetical order.

Each member present shall orally vote “*Aye*” or “*No*” unless the member is excused from voting for good cause. For example, if the board member’s spouse is applying for the position of superintendent, the board may vote to excuse that member from participating in the discussion of applicants.

Step 5: Invite individuals – begin with a motion.

The board may wish to invite certain individuals into the executive session to assist in the screening of candidates.

“I move to invite the following individuals to the executive session:

_____.”

Step 6: Discuss the motion.

No individuals or members of the public have a right to participate in the board’s discussion of whether they ought to be invited into executive session.



Step 7: Vote on the motion.

The board may invite individuals into executive session by a majority vote of the quorum present.

Call each board member name in alphabetical order. Each member present shall orally vote “*Aye*” or “*No*” unless the member is excused from voting for good cause.

Step 8: Enter executive session.

The board may remain in the same room, asking the public to leave during the executive session. Ensure any news cameras or other recording devices are turned off before the board begins its executive session. The board may also move to a different meeting space, leaving the public in the same room to wait for the board to reconvene in open session.

Step 9: Electronically record the executive session.

Turn on the recording device. (Do not turn it off during the executive session unless advised by the school district’s attorney to do so.)

Presiding officer states: ***“It’s [time] on [month, day, year]. My name is [name], and I am the presiding officer. As required by Colorado’s Open Meetings Law, this executive session is being electronically recorded.*”**

The following individuals are present at this executive session: [board members and any individual invitees].

Pursuant to Colorado Revised Statute § 24-6-402(4)(g), the board convened this executive session to discuss documents made confidential by Colorado’s Open Records Act. The particular matter for discussion is the content of applications and supporting documents for candidates for superintendent who are not yet finalists as defined by Colorado Revised Statute § 24-72-204(3)(a)(XI)(A).

I caution each participant to confine all discussion to the stated purpose of the executive session. No formal action may occur in the executive session. If at any point in the executive session any participant believes that the discussion is going



outside the proper scope of the executive session, please interrupt the discussion and make an objection.”

Hold discussion. Do not vote. Do not reach consensus on any decision that will require a vote.

If the recording device fills one tape, pause discussion while the presiding officer flips or changes the tape. Resume recording, stating: ***“It’s [time] on [month, day, year]. The board paused its executive session discussion while we replaced the tape in the recording device. We will now resume our discussion.”***

“I hereby attest that this recording reflects the actual contents of the discussion of this executive session and has been made to satisfy the recording requirements of Colorado’s Open Meetings Law. I will cause the tape to be retained for a 90-day period.

The time is [time], and we now conclude the executive session and return to the open meeting.”

Keep the executive session recording for at least 90 days.

Step 10: Return to open meeting.

Reconvene in open session. Either resume business during the open meeting or adjourn.

Step 11: Keep minutes.

Keep minutes, which shall include the topic of the executive session, the persons present in the executive session, the specific citation to the statute authorizing the board to meet in executive session, and the amount of time spent in executive session.

Best practice is to copy the text of all motions into the minutes. Also record the roll call votes in the text of the minutes.

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