



## Ohio Administrative Code

### Rule 3358:17-1-04.2 Executive sessions.

Effective: March 21, 2015

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There are six valid reasons for holding an executive session. The vote to go into executive sessions must be a roll call vote.

(A) The motion and vote must specify the purpose(s) of the executive session, i.e., "To consider the purchase of property." If the specified purpose is to discuss one of the personnel - related matters governed by division (G)(1) of section 121.22 of the Revised Code - listed in paragraph (A)(1) of this rule - the public body must specify which of the listed purposes it is going into executive session to discuss, i.e., "To discuss the dismissal of an employee." The motion need not name the person who is to be discussed. It is not sufficient to move for executive session to discuss "personnel." The motion or vote should specify one or more of the purposes set forth in paragraph (A)(1) of this rule.

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the employee, official, licensee, or regulated individual requests a public hearing by division (G)(1) of section 121.22 of the Revised Code.

(2) To consider the purchase of property (both real and personal, tangible or intangible), or to consider the sale of property (either real or personal) by competitive bid if disclosure of the information would give a competitive advantage to the other side by division (G)(2) of section 121.22 of the Revised Code.

(3) Conferences with the public body's attorney concerning pending or imminent court action by division (G)(3) of section 121.22 of the Revised Code. Court action is "pending" if a suit has been commenced; court action is "imminent" if it is on the point of happening or impending.

(4) Preparing for, conducting, or reviewing collective bargaining strategy by division (G)(4) of



section 121.22 of the Revised Code.

(5) Matters required to be kept confidential by federal law, federal rules, or state statutes by division (G)(5) of section 121.22 of the Revised Code.

(6) Specialized details of security arrangements where disclosure of the information to be discussed in executive session might reveal information that could be used to commit, or avoid prosecution for, a violation of the law by division (G)(6) of section 121.22 of the Revised Code.

(B) Restrictions on the use of executive sessions.

(1) Provisions allowing executive sessions are to be strictly construed in favor of openness.

(2) The public body has the burden of demonstrating that one of the statutory exceptions allows the executive session.

(3) Only deliberation upon the excepted subjects can be held in executive session. Decision - making must still be carried out in public.

(4) Even where non - excepted matters are so "intertwined" with matters allowed to be discussed in executive session, the non - excepted matters may not be discussed in secret.

(5) A court may look beyond the expressly stated reason for holding an executive session in order to find an implied or circumstantial violation.