



Notice of Executive Session

02.12.2015

Question:

May a District have Executive Session as an on-going place-holder on the Monthly Agenda to potentially address issues that could arise in the course of a Board Meeting?

Answer:

The reason for not including Executive Session as a “place-holder” on the agenda is the public policy of the State of Idaho, which requires that school districts hold their Board Meetings in open session: The people of the State of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the Legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.

Idaho Code § 74-206.

The exception to open meetings, Executive Sessions, is narrowly construed and limited to very specific circumstances:

3. The exceptions to the general policy in favor of open meetings stated in this section [regarding Executive Sessions] shall be narrowly construed. It shall be a violation of this Act to change the subject within the Executive Session to one not identified within the motion to enter the Executive Session or to any topic for which an Executive Session is not provided.
4. No Executive Session may be held for the purpose of taking any final action or making any final decision.

Idaho Code § 74-206A.

Consistent with the requirement of open meetings (and to prevent any meeting or topic being held in “secret”), is the corresponding requirement that all meetings and all agendas be posted to inform the public of what subjects will be discussed at any particular meeting to enable them to decide whether or not they have an interest in a particular issue which could encourage their attendance. Thus, Idaho Code specifically identifies the requirements that meetings be posted (Idaho Code § 74-204(1), (2), (3)); and that an agenda be posted for each meeting.

(Idaho Code § 74-204(4).

Emergencies and expedencies before the Board can be dealt with quickly by the following methods:

1. An Executive Session only meeting can be posted with only twenty-four hour notice. **Idaho Code § 74-204(3) and (2);** and

2. An agenda may be amended after the start of the meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in the original agenda posting. **Idaho Code § 74-204(4)(c)**. Please note, although there is no restriction stating that the agenda cannot be amended to include an unnoticed Executive Session, such amendments should be made only under extraordinary circumstances indicating the good faith reason the Executive Session was not previously posted; typically such a reason would involve the health or safety of an employee or student, or similar emergency requiring immediate consideration that was previously unknown to the Board.

Finally, as a reminder, please be aware that before a Board hears any complaints regarding an employee, whether certificated or classified, it must insure that any and all applicable district policies have been followed as a prerequisite to the Board's involvement. Such requirements may therefore preclude the Board from hearing the matter in Executive Session until after the prerequisites are satisfied.

contact us with your question:



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