
Coates' Canons Blog: Quick-Reference Guide for Closed Sessions

By Frayda Bluestein

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The [North Carolina open meetings law](#) requires most official meetings of public bodies to be open to the public. The law also lists [nine permitted purposes](#) for meeting in closed session. It sets rules for announcing and conducting closed sessions, and cases have interpreted these provisions, providing additional guidance. This blog post outlines the general requirements for closed sessions, as well as special rules that apply to particular types of closed sessions. It also debunks three common misperceptions about closed sessions.

General Requirements:

- Comply with notice requirements for the meeting, even if the entire meeting will consist of a closed session.
- Begin the meeting in open session.
- Adopt a motion to go into closed session.
- State in the motion the authorized purpose(s) for the closed session. There is no legal requirement to include the statutory citation.
- In two special cases, include additional information in the motion. (See bolded information in the list below.)
- Return to open session after completing the closed session.
- Create minutes and general accounts of closed session. See blog post [here](#).
- Determine whether minutes and general accounts may be withheld to avoid frustrating the purpose of the closed session. See blog post [here](#).

Requirements for Specific Types of Closed Sessions as Listed in G.S. 143-318.11(a):

- To protect confidential or privileged information – (a)(1)
 - **Motion must state the name or citation of the law that renders the information confidential or privileged.**
 - Attendance is limited to people who legally have access to the confidential or privileged information.
- To consult with an attorney to protect the attorney-client privilege – (a)(3)
 - **For discussion of existing litigation, motion must identify the parties in the lawsuit.**
 - The attorney must participate in the meeting for the purpose of providing legal consultation with the public body.
 - Allows the public body to instruct the attorney about pending matters, including approving a settlement.
 - Settlements approved in closed session must be reported to the public body in open session within a reasonable time after the settlement is concluded.
 - Attendance is limited to people who are within the attorney-client privilege. See bulletin [here](#).
- Discussing the location or expansion of industries or other businesses in the area served by the public body – (a)(4)
 - Approval of specific economic development incentives, contracts, or expenditures must be taken in open session.
 - There are no legal limitations on who may attend.
- Establishing or instructing staff or agents on the public body's negotiating position for acquisition of real property or employment contracts – (a)(5).
 - Does not apply to the *sale* of property by the public body.
 - Does not allow discussion of *which* property to acquire.
 - Requires the public body, upon request, to disclose before it enters the closed session (1) the property's current owner, (2) the property's location, and (3) the purposes for which the public body intends use the property. See *Boney Publishers, Inc. v. Burlington City Council*, 151 N.C. App. 651 (2002).
 - Allows members of the public body to agree on a final position as an instruction to the staff member or

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- agent.
 - There are no legal limitations on who may attend.
 - The personnel exception – (a)(6)
 - Does not apply to general policy issues. Discussion must be about one or more individual employees.
 - Does not apply to independent contractors, except possibly the unit's contracted attorney. See blog post [here](#).
 - Does not apply to discussions about members of the public body itself, including applicants for appointment to the public body.
 - Does not apply to discussions about members of any other public bodies, including applicants for appointment to those public bodies.
 - Final action to appoint or discharge an employee must be made in open session.
 - If the discussion involves confidential information or records (which it often does), attendance is limited to those who have legal access the confidential information. Otherwise, there is no legal limitation on who may attend.

Common misperceptions about closed sessions.

- Misperception: It is illegal for anyone to disclose information from any closed session. Correction: There is no statutory prohibition on disclosing information, but some information is confidential under other laws. See blog post [here](#).
- Misperception: It is illegal for a public body to vote or take final action in closed session. Correction: Some types of votes and final action are allowed based on the language of particular closed session purposes. See blog post [here](#).
- Misperception: Only the public body and select employees members may attend closed sessions. Correction: The board is generally free to invite anyone it deems appropriate to participate in a closed session except in those cases noted above, when the legal purpose for the closed session restricts who may attend.

Want to learn more about open meetings? Register for all or part of our upcoming three-part open meetings webinar series. [Go here](#) for more information and to register.

Links

- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-318.9.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-318.11.html
- www.sogpubs.unc.edu/electronicversions/pdfs/lglb103.pdf
- www.sog.unc.edu/node/30586