

SUSSEX COUNTY OPEN MEETINGS

Sussex County Government follows the State Law found in title 29 of the Delaware Code which includes the following on open meetings.

§ 10004. Open meetings.

(a) (1) Every meeting of all public bodies shall be open to the public except when closed under subsections (b), (c), (d), and (h) of this section.

(2) A meeting that is open to the public under paragraph (a)(1) of this section must include time for public comment, unless the meeting is of a public body within the General Assembly which is governed by the rules of proceedings adopted under § 9 of Art. II of the Delaware Constitution.

a. The time for public comment must provide a meaningful opportunity for the public to engage with the public body.

b. A public body may impose reasonable time, place, and manner restrictions on the length of the public comment period and the amount of time allotted for each public comment.

(b) A public body may call for an executive session closed to the public pursuant to subsections (c) and (e) of this section, but only for the following purposes:

(1) Discussion of an individual citizen's qualifications to hold a job or pursue training unless the citizen requests that such a meeting be open. This provision shall not apply to the discussion by a licensing board or commission which is subject to the provisions of § 8735 of this title, of an individual citizen's qualifications to pursue any profession or occupation for which a license must be issued by the public body in accordance with Delaware law;

(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property;

(3) Activities of any law-enforcement agency in its efforts to collect information leading to criminal apprehension;

(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation position of the public body;

(5) Discussions which would disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor;

(6) Discussion of the content of documents, excluded from the definition of “public record” in § 10002 of this title where such discussion may disclose the contents of such documents;

(7) The hearing of student disciplinary cases unless the student requests a public hearing;

(8) The hearing of employee disciplinary or dismissal cases unless the employee requests a public hearing;

(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed, unless the employee or student requests that such a meeting be open.

(c) A public body may hold an executive session closed to the public upon affirmative vote of a majority of members present at a meeting of the public body. The vote on the question of holding an executive session shall take place at a meeting of the public body which shall be open to the public, and the results of the vote shall be made public and shall be recorded in the minutes. The purpose of such executive sessions shall be set forth in the agenda and shall be limited to the purposes listed in subsection (b) of this section. Executive sessions may be held only for the discussion of public business, and all voting on public business must take place at a public meeting and the results of the vote made public.

(d) This section shall not prohibit the removal of any person from a public meeting who is wilfully and seriously disruptive of the conduct of such meeting.

(e) (1) This subsection concerning notice of meetings does not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health, or safety, or to the General Assembly.

(2) All public bodies shall give public notice of their regular meetings and of their intent to hold an executive session closed to the public, at least 7 days in advance of the meeting. The notice must include all of the following:

a. The agenda, if the agenda has been determined.

b. The date, time, and place of a meeting, including whether the meeting will be conducted under § 10006A of this title.

(3) An agenda provided under paragraph (e)(2) of this section is subject to change. Changes to an agenda may include any of the following:

a. Additional items, including an executive session, which arise at the time of the public body's meeting.

b. The deletion of items, including an executive session.

(4) All public bodies shall give public notice of the type set forth in paragraph (e)(2) of this section of any special or rescheduled meeting as soon as reasonably possible, but in any event no later than 24 hours before such meeting. A special or rescheduled meeting shall be defined as one to be held less than 7 days after the scheduling decision is made. The public notice of a special or rescheduled meeting shall include an explanation as to why the notice required by paragraph (e)(2) of this section could not be given.

(5) Public notice required by this subsection shall include, but not be limited to, conspicuous posting of said notice at the principal office of the public body holding the meeting, or if no such office exists at the place where meetings of the public body are regularly held, and making a reasonable number of such notices available. In addition, for all noncounty and nonmunicipal public bodies, public notice required by this subsection shall include, but not be limited to, electronic posting on a designated State of Delaware website, approved by the Registrar of Regulations by May 1, 2013, which shall be accessible to the public. In addition, all public bodies in the executive branch of state government that are subject to the provisions of this chapter shall electronically post said notice to the designated State of Delaware website approved by the Secretary of State.

(6) When the agenda is not available as of the time of the initial posting of the public notice it shall be added to the notice at least 6 hours in advance of said meeting, and the reasons for the delay in posting shall be briefly set forth on the agenda.

(f) Each public body shall maintain minutes of all meetings, including executive sessions, conducted pursuant to this section, and shall make such minutes available

for public inspection and copying as a public record. Such minutes shall include a record of those members present and a record, by individual members (except where the public body is a town assembly where all citizens are entitled to vote), of each vote taken and action agreed upon. Such minutes or portions thereof, and any public records pertaining to executive sessions conducted pursuant to this section, may be withheld from public disclosure so long as public disclosure would defeat the lawful purpose for the executive session, but no longer. All public bodies in the executive branch of state government that are subject to the provisions of this chapter and meet 4 or fewer times per year shall electronically post draft minutes of open public meetings, identified as “draft minutes,” to the designated State website approved by the Secretary of State within 20 working days after the conclusion of the meeting. Prior to being posted, draft minutes may be distributed to members of the public body who were present at the open public meeting. Draft minutes may continue to be revised and corrected up until final minutes are approved by the public body at an open meeting. All public bodies in the executive branch of state government that are subject to the provisions of this chapter shall electronically post final approved minutes of open public meetings to the designated State of Delaware website approved by the Secretary of State within 5 working days of final approval of said minutes.

(g) Every regularly scheduled meeting of a public body shall be held within the geographic jurisdiction of that public body. All such other meetings shall be held as follows:

(1) A public body serving any political subdivision of the State, including, but not limited to, any city, town or school district, shall hold all such other meetings within its jurisdiction or the county in which its principal office is located, unless it is school board training that has been approved by the Secretary of Education as beneficial to school board development activities.

(2) For the purposes of this subsection, a “regularly scheduled meeting” shall mean any meeting of a public body held on a periodic basis.

(3) The provisions of this subsection, insofar as they are not practicable, shall not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health or safety, or to a meeting held by a public body outside of its jurisdiction which is necessary for the immediate preservation of the public financial welfare.

(h) This section shall not apply to the proceedings of:

(1) Grand juries;

(2) Petit juries;

(3) Special juries;

(4) The deliberations of any court;

(5) The Board of Pardons and Parole;

(6) Public bodies having only 1 member;

(7) Public bodies within the legislative branch of the state government other than the House of Representatives, the Senate, the Joint Finance Committee, the Joint Committee on Capital Improvement, the Joint Legislative Oversight and Sunset Committee, Legislative Council, committees, excluding ethics committees, specifically enumerated and created by Resolution of the House of Representatives or Senate or task forces specifically enumerated and created by Resolution of the House of Representatives or Senate;

(8) a. The Victims' Compensation Assistance Program Appeals Board may close any meeting to the public where:

1. The claim to be considered derives from any sexual offense within the definitions of a crime in § 9002 of Title 11.

2. The claim to be considered derives from any offense by or against a child, as defined in this section, unless such child has been deemed amenable to the jurisdiction of a criminal court as to the matter before the Board.

3. The claim to be considered derives from any matter not yet adjudicated.

4. The claim to be considered involves a "victim" who is a "child" as those terms are defined in Chapter 90 of Title 11.

b. The Board shall produce a complete record of any proceedings closed to the public which record may be denied to anyone seeking access for good cause shown; and

(9) The deliberations of the following agencies for any case decision governed by the Administrative Procedures Act in Chapter 101 of this title:

a. Delaware Human and Civil Rights Commission;

b. Industrial Accident Board;

c. Tax Appeals Board; and

d. Victims' Compensation Assistance Program Appeals Board.

(i) In an enforcement action pursuant to § 10005 of this title, a citizen or the Attorney General, as the case may be, may seek the forfeiture of all or part of the compensation of members of a board, commission or other public body for any closed meeting which such board, commission or other public body closed knowing that such action violated this chapter. Such forfeiture may only be ordered by the Court if the Court makes a specific finding that the board, commission or public body had no good faith basis to believe that the meeting could be closed. It shall be an absolute defense that an individual never voted in favor of the closed meeting. If the board, commission or public body also met validity for other purposes on the same day as the meeting which violated the act, such valid action shall be considered by the Court in determining the extent of any forfeiture award.