

2015 ORS 192.660¹

Executive sessions permitted on certain matters

- **procedures**
- **news media representatives' attendance**
- **limits**

- (1) ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690) do not prevent the governing body of a public body from holding executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization under ORS 192.610 (Definitions for ORS 192.610 to 192.690) to 192.690 (Exceptions to ORS 192.610 to 192.690) for holding the executive session.
- (2) The governing body of a public body may hold an executive session:
 - (a) To consider the employment of a public officer, employee, staff member or individual agent.
 - (b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing.
 - (c) To consider matters pertaining to the function of the medical staff of a public hospital licensed pursuant to ORS 441.015 (Licensing of facilities and health maintenance organizations) to 441.063 (Use of facilities by licensed podiatric physicians and surgeons) and 441.196 (Discharge of patients receiving mental health treatment) including, but not limited to, all clinical committees, executive, credentials, utilization review, peer review committees and all other matters relating to medical competency in the hospital.
 - (d) To conduct deliberations with persons designated by the governing body to carry on labor negotiations.
 - (e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.
 - (f) To consider information or records that are exempt by law from public inspection.
 - (g) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.

- (h)** To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.
- (i)** To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.
- (j)** To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.
- (k)** To consider matters relating to school safety or a plan that responds to safety threats made toward a school.
 - (L)** If the governing body is a health professional regulatory board, to consider information obtained as part of an investigation of licensee or applicant conduct.
- (m)** If the governing body is the State Landscape Architect Board, or an advisory committee to the board, to consider information obtained as part of an investigation of registrant or applicant conduct.
- (n)** To discuss information about review or approval of programs relating to the security of any of the following:
 - (A)** A nuclear-powered thermal power plant or nuclear installation.
 - (B)** Transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or nuclear installation.
 - (C)** Generation, storage or conveyance of:
 - (i)** Electricity;
 - (ii)** Gas in liquefied or gaseous form;
 - (iii)** Hazardous substances as defined in ORS 453.005 (Definitions for ORS 453.005 to 453.135) (7)(a), (b) and (d);
 - (iv)** Petroleum products;
 - (v)** Sewage; **or**
 - (vi)** Water.
 - (D)** Telecommunication systems, including cellular, wireless or radio systems.
 - (E)** Data transmissions by whatever means provided.
- (3)** Labor negotiations shall be conducted in open meetings unless negotiators for both sides request that negotiations be conducted in executive session. Labor negotiations conducted in executive session are not subject to the notification requirements of ORS 192.640 (Public notice required).

- (4) Representatives of the news media shall be allowed to attend executive sessions other than those held under subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061 (Hearing to expel minor students or to examine confidential medical records) (2) but the governing body may require that specified information be undisclosed.
- (5) When a governing body convenes an executive session under subsection (2)(h) of this section relating to conferring with counsel on current litigation or litigation likely to be filed, the governing body shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.
- (6) No executive session may be held for the purpose of taking any final action or making any final decision.
- (7) The exception granted by subsection (2)(a) of this section does not apply to:

 - (a) The filling of a vacancy in an elective office.
 - (b) The filling of a vacancy on any public committee, commission or other advisory group.
 - (c) The consideration of general employment policies.
 - (d) The employment of the chief executive officer, other public officers, employees and staff members of a public body unless:

 - (A) The public body has advertised the vacancy;
 - (B) The public body has adopted regular hiring procedures;
 - (C) In the case of an officer, the public has had the opportunity to comment on the employment of the officer; **and**
 - (D) In the case of a chief executive officer, the governing body has adopted hiring standards, criteria and policy directives in meetings open to the public in which the public has had the opportunity to comment on the standards, criteria and policy directives.
- (8) A governing body may not use an executive session for purposes of evaluating a chief executive officer or other officer, employee or staff member to conduct a general evaluation of an agency goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs.
- (9) Notwithstanding subsections (2) and (6) of this section and ORS 192.650 (Recording or written minutes required):

 - (a) ORS 676.175 (Complaints and investigations confidential) governs the public disclosure of minutes, transcripts or recordings relating to the substance and disposition of

licensee or applicant conduct investigated by a health professional regulatory board.

(b) ORS 671.338 (Confidentiality of application, examination and investigatory information) governs the public disclosure of minutes, transcripts or recordings relating to the substance and disposition of registrant or applicant conduct investigated by the State Landscape Architect Board or an advisory committee to the board.

(10) Notwithstanding ORS 244.290 (General duties of commission), the Oregon Government Ethics Commission may not adopt rules that establish what entities are considered representatives of the news media that are entitled to attend executive sessions under subsection (4) of this section. [1973 c.172 §6; 1975 c.664 §2; 1979 c.644 §5; 1981 c.302 §1; 1983 c.453 §1; 1985 c.657 §2; 1995 c.779 §1; 1997 c.173 §1; 1997 c.594 §1; 1997 c.791 §9; 2001 c.950 §10; 2003 c.524 §4; 2005 c.22 §134; 2007 c.602 §11; 2009 c.792 §32; 2015 c.421 §2; 2015 c.666 §3]

Note: Section 4, chapter 666, Oregon Laws 2015, provides:

Sec. 4. The amendments to ORS 192.660 (Executive sessions permitted on certain matters) and 244.290 (General duties of commission) by sections 1 to 3 of this 2015 Act apply to alleged violations of ORS 192.660 (Executive sessions permitted on certain matters) that occur on or after the effective date of this 2015 Act [January 1, 2016]. [2015 c.666 §4]

¹ Legislative Counsel Committee, *CHAPTER 192—Records; Public Reports and Meetings*, https://www.oregonlegislature.gov/bills_laws/ors/ors192.html (2015) (last accessed Jul. 16, 2016).