



**Strengthening Oklahoma's Safety Net,
One Community At A Time**

Board Bulletin

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Executive Session Explained

While Community Health Center (CHC) Boards must be transparent, there are situations that require complete confidentiality. Executive sessions allow board members to discuss private matters. Issues requiring open and frank discussion among board members include management personnel matters (e.g., competency, compensation, succession planning). If board members' concerns are not candidly discussed in a timely manner with the rest of the governing body, issues fester causing tension and internal conflict that will harm the organization. To avoid the appearance of being secretive, boards must adhere to straightforward rules for executive sessions and communicate their purpose to the public as a necessary governing tool.

Who Participates in Executive Sessions?

◆ **“Non-management directors”** - This means the volunteer board members who are not a part of the management team. While chief executive officers (CEOs) are ‘ex officio’ (non-voting) members of most boards, they are not included in executive sessions as they are clearly management directors. Open communication between the board and the CEO, including routine evaluations and outlined performance expectations, help build trust that will not be easily shaken when a board must go into Executive Session.

Open Meeting Act Considerations

To prevent the use of executive session as a means to circumvent the intent of open meetings, specific rules are outlined in Section 307 of the Public Meetings Open Meeting Act. 307(A) states, “No public body shall hold executive sessions unless otherwise specifically provided in this section [307(B)].” Reasons include:

◆ **Personnel issues** - “Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;”

◆ **Negotiations** - “Discussing negotiations concerning employees and representatives of employee groups;”

◆ **Property Purchase** - “Discussing the purchase or appraisal of real property;” Section 307(D) specifies that board members, their attorney and immediate staff are permitted to attend executive sessions dealing with purchasing or appraising real property. “No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly...may be present or participate in the executive session.”

◆ **Litigation communications** - “Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;”

◆ **State or federal law compliance** - “Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law;”

◆ **Terrorism** - Item 9 has a complete discussion regarding acts of terrorism particularly as it relates to information technology confidentiality.

307(C) names specific public bodies permitted to hold executive sessions. 307(E) spells out **strict procedures**: 1) Proposed executive session must be noted on agenda; 2) The executive session is authorized by a majority vote of a quorum and the vote is a recorded vote; and 3) Any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded. The **posted agenda** must contain sufficient information for the public to ascertain that an executive session will be proposed; identify the items of business and purposes of the executive session; and specifically state the provision of Section 307 authorizing the executive session (311(B) (2)). If a **violation** occurs, 307(F) states 1) each public body member will be subject to criminal sanctions, and 2) the minutes and all other records of the executive session normally kept confidential will immediately be made public.

To review OPCA's entire *Board Bulletin* series, visit the ‘CHC Boards’ section of www.okpca.org.

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