

ARIZONA BOARD OF EXECUTIVE CLEMENCY

BOARD POLICY #105

Policy Title: OPEN MEETINGS	Effective Date: July 06, 2017	Policy #105
	Supersedes: January 29, 2014 #104	
		Pages: 6

PURPOSE

The purpose of this policy is to establish Board procedures to ensure the Arizona Board of Executive Clemency’s compliance with the Arizona’s Open Meeting law and provide maximum public access to its proceedings. It is the responsibility of every Board member and staff to read and understand the Arizona’s Open Meeting law.

AUTHORITY:

A.R.S. §38-431.01;02; 03;04;05;06;07;08; & 09
A.R.S. §41-1279.04

PROCEDURE:

105.1. Board Sessions

- 1.1. The Arizona Board of Executive Clemency is a public body and all official deliberations and proceedings conducted by the Board shall be in open session and accessible to the public.
 - 1.1.1 Hearings held by the Board in a prison facility are subject to the Open Meeting Law but the Director of the Arizona Department of Corrections may impose requirements on attendance or prohibit attendance pursuant to A.R.S. §38-431.08.
- 1.2 Three or more members of the Board constitute a quorum. A quorum may not discuss propose or take legal action including deliberations when not in a public meeting.
 - 1.2.1 The Chairman may designate that the presence of two members of the board constitute a quorum. When a quorum of two are present, the record must reflect that the Chairman has designated a two-person quorum.
- 1.3 Members of the Board may discuss, consider, or decide **only** those matters listed on the agenda and “other matters related thereto (A.R.S. §38-431-.02(H)).”

- 1.3.1 Matters not specifically listed on the calendar/agenda brought up during a hearing/meeting should be deferred and scheduled on the calendar/agenda, if deemed necessary.
- 1.3.2 Members cannot use email to circumvent the Open Meeting Law requirements.
- 1.3.3 Members of the public body may not direct any staff to communicate in violation of the Open Meeting Law.
- 1.4 An open call to the public may be allowed at each hearing or business meeting to allow members of the public to address the public body. Prior to the hearing or meeting, staff or security personnel shall provide a list of those wishing to speak to the Board.
 - 1.4.1 The Chairman or Panel Chairman will allow members of the public to speak when deemed appropriate. The Chairman or Panel Chair may limit the time of speakers.
 - 1.4.2 Members of the public who intend to speak or provide comment at the meeting are asked to sign a register so that the Board can comply with the minute-taking requirements and maintain adequate records.
 - 1.4.3 Members of the public body may not discuss or take action on matters raised during the call to the public that are not specifically identified on the agenda.
 - 1.4.4 The Chairman or Panel Chairman may remove from the hearing room an individual who presents a safety risk to the Board and the public or any person who disrupts the proceedings.

105.02. Public Notice

- 2.1 In accordance with the Board's Calendar Policy #103 and the Open Meeting Law, the Board shall approve and post its meeting agendas at least **24 hours** from the time of the first scheduled session.
 - 2.1.1. The Executive Director shall ensure the approved calendar and business meeting agendas are posted on the Arizona Board of Executive Clemency's website and the designated on-site public access.
- 2.2 Agendas must contain information "reasonably necessary to inform the public of the matters to be discussed or decided (A.R.S. §38-431.09)." All public meeting notices shall contain:
 - a. date, time, and place of the meeting. (address, room number);
 - b. matters to be discussed, considered or decided;
 - c. a statement that notes "The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on any matter listed on the agenda pursuant to A.R.S. 38-431(A)(3); and,
 - 1. accommodations provided under the ADA.

- 2.2.1 This requirement does not permit the use of generic agenda items such as “personnel,” “new business,” “old business,” or “other matters” unless the specific matters or items to be discussed are separately identified.
- 2.3 The Board may recess and resume a meeting with less than 24 hour notice if proper notice of initial session of the meeting is given and, prior to recessing, notice is publicly made regarding the time and place of the resumed meeting or regarding the method by which notice shall be publicly given.
- 2.4 The Executive Director will ensure that all Board calendars and/or agendas contain a statement that provides public notice that the Board may discuss matters in executive session for the purpose of obtaining legal advice.

105.03. Board Hearing Records

- 3.1 Any hearings held by the Board shall be conducted as an open meeting to the public unless designated as an executive session.
 - 3.1.1. All board hearing sessions and business meetings shall be recorded.
 - 3.1.1.2. The Board’s Executive Director shall assign a staff person to ensure the board’s recording devices are operational prior to the Board beginning its daily schedule and nonoperational at the conclusion of the Board’s schedule.
 - 3.1.2. All hearing sessions and business meetings shall be available for public inspection.
 - 3.1.2.1. Executive Sessions shall be recorded but remain confidential and not available for public access.
 - 3.1.3 The designated Panel Chairman will begin the Board’s schedule by noting on the record:
 - a. date, time, and place of the meeting,
 - b. identification of the Board members as either present or absent,
 - c. the designated Panel Chairman for that day,
 - d. a general description of the matters to be considered.
- 3.2 The Panel Chairman shall ensure:
 - a. the recognition by name of each Board member prior to their speaking;
 - b. that the members of public shall announce their name before addressing the Board;

- c. he/she states for the record any motion taken as action and the name of each board member voting and their vote;
- d. a statement is made regarding the final findings and/or determination of the Board, and
- e. the voting record is accurate and complete.

105.04. Public Access to Records and Fees

4.1 The Executive Director shall ensure that a copy of the recording or the minutes of any hearing or meeting be made available for public review within three business days, excluding holidays, after a hearing or meeting.

4.1.1 The Board's official record of its mandated hearings relating to inmates and/or offenders and any executive sessions shall be audio copies of each hearing. The Board will not provide minutes or transcripts of those hearings.

4.1.2 Minutes of the Board's business meetings may be distributed before they have been officially approved at a subsequent meeting should be marked as "draft" or "unapproved."

4.1.3 Contents of the business meeting minutes must contain the following information:

- a. date, time and place of the meeting;
- b. the members of the public body recorded as either present or absent;
- c. a general description of the matters discussed or considered. Minutes must contain information regarding the matter even though no formal action or vote was taken with respect to the matter;
- d. an accurate description of all legal actions proposed, discussed or taken and the names of persons who proposed each motion;
- e. the name of each person "making statements or presenting material to the public body and a specific reference to the legal action," to which the statement or presentation relates;
- f. if the discussion in the public session did not adequately disclose the subject matter and specifics of the action taken, the minutes of the public meeting at which such action was taken should contain sufficient information to permit the public to investigate further the background or specific facts of the decision;
- g. if matters not on the agenda were discussed or decided at a meeting because of an actual emergency, the minutes must contain a full description of the nature of the emergency; and
- h. if a prior act was ratified, the minutes must contain a copy of the disclosure statement required for ratification.

4.2 If the Board encounters technical difficulties with recording devices, the Chairman of the Board shall provide a written statement describing the malfunction (if known).

4.2.1. The statement shall be included on the Board's calendar section located on the website and will be included as an attachment to any request for a recorded copy of a hearing.

4.2.2. If there is no record of the hearing or meeting, then a copy of the disposition document along with any other written documents related shall be made available for public review or purchase upon request

4.2.2.1. In accordance with Board policy, all documents shall be redacted as designated by Board Policy #300 Public Records Requests.

4.3 Copying fees shall be established by the Executive Director in accordance with an accounting of office expenses. These fees shall be posted on the Board's website, listed on the Public Records Request form, and in a designated public area of the Board.

105.05 Executive Session

5.1 The Board may enter executive session upon a public majority vote of the members constituting the quorum. Any member of the body may put forth the vote.

5.1.1. All matters discussed and recorded in executive session shall remain confidential in accordance with A.R.S. §38-431.03.

5.1.1.1. Once the Board has voted to hold an executive session, the Chairman or Panel Chairman shall:

- a. disable all broadcasting to public areas,
- b. remind all present for the session that all business conducted in executive session is confidential,
- c. only matters related to the session's purpose may take place.

5.2 An executive session may only be held for discussion or consideration of specific matters. The following matters may be discussed in executive session:

- a. Personnel matters,
- b. Confidential Records,
- c. Legal Advice,
- d. Litigation, contracts, and settlement,
- e. Employee salary discussions,
- f. International, interstate and tribal negotiations, and/or
- g. Purchase, sale or lease of real property.

5.3 Executive Sessions may only be attended by:

- a. members of the public body
- b. officers, appointees and employees but only as allowed in A.R.S. §41-1279.04
- c. the Board's Executive Director whose presence is reasonably necessary in order for the public body to carry out its executive responsibilities.

5.4 Board members **may not** take legal action while in executive session and must return to public session to vote. Board members may not poll other members while in executive session.

5.5 Members **do not** vote to exit executive session.

105.06 Violations of the Open Meeting Law

6.1 No member shall knowingly direct any staff member to communicate in violation of the Open Meeting Law.

6.2 Any violations shall be reported immediately to the Board Chairman and/or the Board's counsel.

- 6.2.1 Violations reported to the Chairman shall be discussed with the Board's counsel for appropriate action.

Implementation:

This policy was adopted by the Arizona Board of Executive Clemency in accordance with law.