

INTERSTATE COMMISSION FOR
ADULT OFFENDER SUPERVISION

01-2009 - GUIDELINES FOR HANDLING CLOSED SESSION MINUTES

POLICY NUMBER	ISSUED	REVISED
01-2009	January 13, 2009	April 5, 2022

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I. Authority

The Executive Committee is vested with the power to adopt a policy on behalf of the Interstate Commission during periods when the Interstate Commission is not in session. The Executive Committee oversees the day-to-day activities managed by the Executive Director.

II. Applicability

This policy applies to Commissioners, Compact Administrators, Deputy Compact Administrators, State Legal Representatives and all persons engaged in the business of the compact.

III. Policy

In accordance with ICAOS compact statute provisions related to open meetings act requirements, minutes must be kept of all meetings of the Commission and its committees. The ICAOS statute restricts circumstances under which the Commission and its committees may meet in closed sessions. The law is based on the policy that the public right to attend and observe meetings must be respected and consistent with the conduct of governmental business. Meetings involving the regulation of employees, investigations, compliance and enforcement actions, and litigation, are often best discussed in a closed session environment.

This policy outlines the protocol for recording, publishing, and retaining closed session minutes for the Interstate Commission for Adult Offender Supervision or its committees.

IV. Procedure for Conducting a Closed Session

For the Commission or a committee to lawfully meet in closed session, all of the following conditions must be satisfied:

A. A closed meeting may be held only by motion of the Commission or committee;

B. The Commission or committee must provide a legally-sufficient basis for closing the meeting, including the specific subject matter;

C. The meeting must start in open session and properly reconvenes in a closed session;

D. The motion to meet in closed session (and the vote on that motion) must be recorded in the official minutes of the meeting.

E. When the Commission or committee is aware of an item or items to be discussed at a closed session in advance of the notice and circulation of the agenda the circulated agenda should include a statement that the body may meet in closed session. (The statement must also identify the subject matter and the statutory basis of the closed session).

F. At the meeting, the chair should say, “I will now entertain a motion to reconvene in closed session to review the following matter _____.” When a chair entertains this motion to reconvene in closed session, the chair (with assistance from counsel, if necessary), should specifically cite the appropriate sections of the ICAOS statute authorizing this closed meeting [i.e., most likely compact Article VII]. Further, this motion “...shall be carried by majority vote in a manner that the vote of each member is ascertained and recorded in the minutes” In the event the motion fails, the meeting must be conducted in open session. If the motion passes, the meeting will then be closed to individuals other than members of the Commission or committee or individuals invited by the Commission or committee eligible to attend.

G. Secret ballots may not be cast. Balloting can proceed in the following manner: a show of hands; signed ballots to be saved and attached to the minutes; or each person’s vote can be recorded in the minutes; or a roll call vote, if requested by at least one member, with each person’s vote recorded in the minutes.

H. In general, a meeting may not be closed and reconvened again in open session unless the meeting is one in which a closed session is a general business meeting where other non-confidential items, not subject to the closed meeting requirements are on the agenda.

V. Distributing Closed Session Minutes

A. Once closed session minutes are available, they may be distributed to official Commission or committee members via email or hardcopy. Care should be taken to limit access to such meeting materials by non-Commission or non-committee members. Closed session minutes should be appropriately addressed and labeled as “For Your Eyes Only” or “Personal and Confidential.”

VI. Preservation and Retention of Closed Session Minutes

A. Minutes of closed sessions of the Commission or its committees shall remain confidential until it is determined that such records no longer require confidential treatment and are approved for release. Such a determination should be conducted in consultation with legal counsel to the Commission. If there is no need to maintain confidentiality, it can be reported in an open session that the minutes or portions thereof that no longer require confidential treatment are available for public inspection.

B. In some cases, closed session minutes may be recorded with such generality as to not reveal any confidential details, but simply communicate general information. In such instances, it is appropriate for the minutes to be approved and released in open session along with open session minutes.

C. Retaining the records for all minutes of the Commission and its committees is the responsibility of the national office. It is the practice for minutes to be posted to the Commission’s website once approved. Where closed session minutes are recorded and approved, the national office will keep those minutes filed separately.