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## EXPLANATION: CLOSED MEETINGS, RECORDS AND VOTES

House Bill 256 (2013) modified provisions of the Sunshine Law allowing certain security-related information to be kept from public disclosure. It also removed the sunset provisions that had previously applied to §§ 610.021 (18) and (19).

The section permitting the closing of operation guidelines and response plans to critical security situations is not new, but had been allowed to expire under a previously applicable sunset provision. This section is now the law again. The section allowing the district to close portions of records that contain authorization or access codes to district security systems is new.

At the request of districts, MSBA has also strengthened the section on confidentiality.

*MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.*

X	Board Secretary		Business Office		Coaches/Sponsors
	Facility Maintenance		Food Service		Gifted
	Human Resources		Principals		Library/Media Center
	Health Services		Counselor		Special Education
	Transportation		Public Info/Communications		Technology

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## CLOSED MEETINGS, RECORDS AND VOTES

The Board will conduct closed meetings, maintain records and hold votes in accordance with the Missouri Sunshine Law.

### **Closed Meeting Notice**

Public notice of closed meetings shall be given in accordance with Board policy and law. The motion and the vote to authorize closed session must occur in open session. The motion must include the specific reason for closing the meeting with reference to a specific section of the statute, and the vote on the motion must be taken by roll call and entered into the minutes. The motion will pass if a majority votes in the affirmative.

Posted notice of a closed meeting will include the time, date and place of the closed meeting and the reasons for holding the meeting with reference to the specific statutory exemption under which the meeting will be closed. Only business directly related to the specific statutory exemptions provided may be discussed or voted upon at a closed meeting.

### **Objection**

In the event a motion is made to close a meeting, record or vote, and a Board member believes that the motion would violate the Missouri Sunshine Law if passed, the Board member may state his or her objection to the motion before or at the time the vote is taken. The Board secretary will enter the objection in the minutes. Once the objection has been made, the Board member shall be allowed to fully participate in the meeting, record or vote even if it is closed over the member's objection. If the Board member voted against the motion to close the meeting, record or vote, the recorded objection and the vote constitute an absolute defense to any claim filed against the Board member pursuant to the Missouri Sunshine Law.

### **Meeting Location**

The Board shall only close that portion of the meeting facility needed to house the Board in closed session. Members of the public must be allowed to remain in the meeting facility so that they may attend any open meeting that follows the closed meeting.

### **Confidentiality**

The Board members, employees and others in attendance are honor bound not to disclose the details or discussions of the closed meetings, records or votes **or any other information that is deemed confidential by law, Board policy or district procedures. It is an essential job function of every employee in the district to follow confidentiality laws and the district's policies and procedures**

regarding confidential information. District employees who fail to keep closed information or closed meetings confidential may be disciplined or terminated. ~~The Board may publicly admonish Board members who fail to keep closed records and meetings confidential in violation of this policy.~~ District employees are required to report to their supervisors when they accidentally disclose confidential information or reasonably believe another person is disclosing confidential information in violation of law, Board policy or district procedures.

Board members who violate the law, Board policy or district procedures regarding confidentiality may be removed from all district committees and publicly admonished by the Board, and the Board may take legal action against the member by seeking an injunction or monetary damages. The Board may also seek legal action from the local prosecutor or the Missouri Attorney General's Office. In addition, it is a crime, punishable by a fine of up to \$500 or a year in jail, for any School Board member or employee of a school district to willfully neglect or refuse to perform a duty imposed by certain state statutes applicable to school districts, some of which contain confidentiality requirements.

### Closed Topics

Pursuant to the Missouri Sunshine Law, the Board of Education hereby closes all meetings, records and votes pertaining to:

1. Legal actions, causes of action or litigation involving the district and any confidential or privileged communication between the district or its representatives and its attorneys. Any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving the district or an agent or entity representing the district, including any insurance company acting on the district's behalf, shall become available to the public upon final disposition of the matter voted upon or upon the signing of a settlement agreement by the parties. A settlement agreement may be ordered closed by a court; however, the amount of any ~~monies~~ **moneys** paid by or on behalf of the school district, pursuant to the settlement agreement, must be available to the public. When the district makes a decision involving the exercise of eminent domain, the vote shall become public immediately following the meeting in which the vote was taken to authorize institution of such legal matter. Legal work product is considered a closed record. **§ 610.021(1), RSMo.**
2. The lease, purchase or sale of real estate by the district where public knowledge of the transaction might adversely affect the amount to be received or spent by the district. Any minutes, vote or public record approving such a contract shall become available to the public upon execution of the lease, purchase or sale of the real estate. **§ 610.021(2), RSMo.**
3. Hiring, firing, disciplining or promoting of particular employees by the district when personal information about the employee is discussed or recorded. Any vote on a final

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decision to hire, fire, promote or discipline an employee must be made available, with a record of how each member voted, to the public within 72 hours of the close of the meeting where the action occurred. The district will attempt to notify the affected employee during the 72-hour period before the decision is made available to the public. The term "personal information" means information relating to the performance or merit of individual employees. § 610.021(3), RSMo.

4. Proceedings involving the mental or physical health of an identifiable individual. § 610.021(5), RSMo.
5. Scholastic probation, expulsion or graduation of identifiable persons, including records of individual tests or examination scores. However, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of 18 and by the parents, guardian or other custodian and the student if the student is over 18. § 610.021(6), RSMo.
6. Testing and examination materials until the test or examination is given for the final time. § 610.021(7), RSMo.
7. Welfare cases of identifiable individuals. § 610.021(8), RSMo.
8. Preparations on behalf of the district or its representatives for negotiations with employee groups, including any discussion or work product. § 610.021(9), RSMo.
9. Software codes for electronic data processing and documentation thereof. § 610.021(10), RSMo.
10. Competitive bidding specifications until officially approved or published. § 610.021(11), RSMo.
11. Sealed bids and related documents until the bids are opened; sealed proposals and related documents until all proposals are rejected; or any documents related to a negotiated contract until a contract is executed. § 610.021(12), RSMo.
12. Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment. However, the names, positions, salaries and lengths of service of district officers and employees shall be available to the public. § 610.021(13), RSMo.
13. Records protected from disclosure by law. § 610.021(14), RSMo.

14. Scientific and technological innovations in which the owner has a proprietary interest. § 610.021(15), RSMo.
15. Records relating to municipal hotlines established for reporting abuse and wrongdoing. § 610.021(16), RSMo.
16. Confidential or privileged communications between the Board and its auditor, including all auditor work product. However, all final audit reports issued by the auditor are to be considered open records. § 610.021(17), RSMo.
17. Operational guidelines, and policies and specific response plans developed, adopted or maintained by the district for use in responding to or preventing any critical incident that is or appears to be terrorist in nature and that has the potential to endanger individuals or public health or safety. ~~When seeking to close information pursuant to this exception, the Board shall state in writing~~ affirmatively states that disclosure would impair its ability to protect the health or safety of persons and that the public interest in nondisclosure outweighs the public interest in disclosure of the records. ~~Information regarding~~ Financial records related to procurement or expenditures or contracts made in implementing these policies related to operational guidelines, policies or plans shall be open records. § 610.021(18), RSMo.
18. Existing or proposed security systems and structural plans of real property owned or leased by the district where public disclosure would threaten public safety. Procurement records or expenditures relating to security systems purchased with public funds shall be open. ~~When the district is seeking to close this information, it must~~ The Board affirmatively states in writing that disclosure would impair the district's ability to protect the security or safety of persons or real property and that the public interest in nondisclosure outweighs the public interest in disclosure of the records. § 610.021(19), RSMo.
19. The portion of a record that identifies security systems, access codes or authorization codes for security systems of real property. § 610.021(20), RSMo.
20. Records that identify and would allow unauthorized access to or unlawful disruption of the configuration of components or the operation of a computer, computer system, computer network or telecommunications network of the district if released. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures for such computer, computer system, computer network or telecommunications network shall be open. § 610.021(21), RSMo.
2021. Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic

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transactions between the district and a person or entity doing business with the district. However, the record of a person or entity using a district credit card or any record of a transaction that is reimbursed by the district will be open. § 610.021(22), RSMo.

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***Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.***

Adopted:     FIELD(AdoptDate)

Revised:

Cross Refs:   ECA, Building and Grounds Security  
                  EHBC, Privacy Protection  
                  GBLB, References  
                  KBA, Public's Right to Know  
                  KDA, Custodial and Noncustodial Parents  
                  KKB, Audio and Visual Recording

Legal Refs:   §§ 162.091, 610.010 - .029, RSMo.

FIELD(DistrictLocationLine)