

Open Meetings Act Alert

In keeping with MABE's goal to provide value-added services that enhance the efficiency and capability of school system governance, management and operations, **MABE will be offering another Open Meetings Act Training on May 14.** As a reminder, the training requirement set forth in [§ 3-213 of the General Provisions](#) Article, requires each public entity subject to the Open Meetings Act to designate at least one member to receive training on the requirements of the Act.

MABE was recently contacted by Ann MacNeille, Counsel to the Open Meetings Compliance Board from the Office of the Attorney General. The Compliance Board has requested that we share an alert about what was referred to as "a recent spate of Open Meetings Act complaints" against local boards of education.

Currently pending complaints, against both small and large school system boards across the state, all have been brought by one individual. He is gathering the substance of his allegations specifically from school system websites.

The pending complaints fall roughly into three areas of concern:

1. The first complaint alleges that local boards are discouraging the public from attending the open portion of stand-alone closed meetings if there is no invitation to attend. This allegation ignores the fact that the public portion of a stand-alone closed meeting would last for only a few minutes for the sole purpose of completing the requisite motions, votes, and forms. Accordingly, the Compliance Board is suggesting that all notices of closed meetings contain some version of the following language:

"The Board will meet in open session only for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in closed session."

2. The second complaint is that local boards are providing insufficient information when completing Section 3 of the ["Closing Statement" form](#). The expectation is that local boards will provide rationale to demonstrate to the public, the need to discuss the matter in closed session. Section 3 requires:
 - a. A specific 'citation' to be noted from a list of fourteen provisions
 - b. The 'topic' to be discussed
 - c. The 'reason for closed-session discussion of the topic.'

For example, a General Provisions Article, §3-305(b) (7) citation 'to consult with counsel to obtain legal advice' cannot be followed by the topic 'to consult with counsel' with the reason 'to obtain legal advice.' The topic and reason must, without disclosing the confidential reason for closing, give the public an explanation of the general topic to be discussed with counsel and the reason the topic needs to be discussed in a closed session rather than an open session. It is wise to have these portions of the closing statement form filled out in advance after having secured any needed assistance in conveying the requisite level of information to satisfy the Open Meetings Act.

3. The third area relates to the requirement that a summary of any closed session must be included in the minutes of the next open meeting. The summary must specify multiple items including:

- Time, place, purpose of the closed session
- Each board member's vote on the motion to close the session
- The statutory exception claimed as a basis for excluding the public
- A list of the topics discussed and persons present
- Actions taken in closed session

The board is required to disclose only as much information as possible without compromising the confidentiality of the closed session. The summary occurs after the closed session, and therefore, should reflect more information to the public than the closing statement form which only anticipates what may occur in the closed session. Thus the closing statement and the open meeting minutes containing the summary should not be precisely the same.

For more information about the Open Meetings Act Training on May 14th, visit the [Board Service Academy](#) page on the website.

Questions and/or concerns can be directed to Stephen Bounds, Esq., MABE Director of Legal & Policy Services at 410-841-5414 or sbounds@mabe.org