

**Section 2-3.3. Closed meetings; Motions therefore; Attendance by non-members; Candidate Interviews; Certification Requirement; Failure of Certification; Attendance at any Committee Meeting Allowed.** — A. Closed meetings may be held by the School Board or any committee thereof only in accordance with Virginia Law, for purposes including the following purposes:

1. Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of the School Board. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter which involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the School Board. The School Board may not, however, discuss the compensation of Board members in closed session.
2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student enrolled in Suffolk Public Schools. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, legal counsel and, if the student is a minor, the student's parents or legal guardians, so request in writing and such request is submitted to the presiding officer of the School Board.
3. Discussion or consideration of the condition, acquisition or use of real property for public purposes or of the disposition of publicly held property where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the School Board.
4. The protection of the privacy of individuals in personal matters not related to public business.
5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business or industry's interest in locating or expanding its facilities in the community.
6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the School Board would be adversely affected.
7. Consultation with legal counsel and briefings by staff members, consultants or attorneys, pertaining to actual or potential litigation where such consultation or briefing in open meeting would adversely affect the

negotiating or litigating posture of the School Board. For purposes of this subsection, "probable litigation" means litigation which has been specifically threatened or on which the School Board or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. The closure of a meeting is not permitted merely because an attorney representing the School Board is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by the School Board regarding specific legal matters requiring the provision of legal advice by such counsel. The closure of a meeting is not permitted merely because an attorney representing the School Board is in attendance or is consulted on a matter.
9. Discussion or consideration of honorary degrees or special awards.
10. Discussion or consideration of tests or examinations or other information used, administered or prepared by a public body and subject to the exclusion in subdivision 4 of Va. Code § 2.2-3705.1.
11. Discussion of strategy with respect to the negotiation of a hazardous waste sitting agreement or to consider the terms, conditions, and provisions of a sitting agreement if the governing body in open meeting finds that an open meeting will have a detrimental effect upon the governing position of the governing body or the establishment of the terms, conditions, and provisions of the sitting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.
12. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 3 or 4 of Va. Code § 2.2-3705.2 where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.
13. Discussion or consideration of information subject to the exclusion in subdivision 11 of Va. Code § 2.2-3705.6 (the Public Private Education Facilities and Infrastructure Act) by the School Board or any independent review panel appointed to review information and advise the School Board concerning such information.

14. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the School Board.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the School Board, following the meeting, re-convenes in open meeting and takes a vote of the membership of such resolution, ordinance, rule, contract, regulation or motion which shall have its substance reasonably identified in the open meeting.

C. No closed meetings are held by the School Board or any committee thereof unless the School Board or committee has taken an affirmative recorded vote in an open meeting approving a motion which:

- (i) identifies the subject matter,
- (ii) states the purpose of the meeting as authorized in Va. Code § 2.2-3711.A or other provision of law and
- (iii) cites the applicable exemption or exemptions from open meeting requirements provided in the Virginia Freedom of Information Act (FOIA) or other provision of law.

The matters contained in such motion are set forth in detail in the minutes of the open meeting. A general reference to the provisions of the Virginia Freedom of Information Act (FOIA) or authorized exemptions from open meeting requirements, or the subject matter of the closed meeting is not sufficient to satisfy the requirements for holding a closed meeting.

D. These notice provisions shall not apply to closed sessions of the School Board held solely for the purpose of interviewing candidates for the position of superintendent. Prior to any such closed session for the purpose of interviewing candidates, the School Board shall announce in an open meeting that such closed meetings shall be held at a disclosed or undisclosed location within fifteen (15) days thereafter.

E. The School Board or committee thereof, in holding a closed meeting, restricts its consideration of matters during the closed portions only to those purposes specifically exempted under the FOIA.

F. Recording devices to include cameras, computer storage devices, digital video recorders, sound recording technology or tape recording devices of any kind whatsoever, are not allowed in closed meetings of the School Board, unless authorized by the School Board.

G At the conclusion of any closed meeting, the School Board reconvenes in open session immediately thereafter and takes a roll call or other recorded vote to be included in the School Board's minutes, certifying that to the best of the member's knowledge:

- (i) only public business matters lawfully exempted from open meeting requirements, and
- (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the School Board.

Any member of the School Board who believes that there was a departure from the requirements of (i) and (ii) above, so states prior to the vote, indicating the substance of

the departure that, in the member's judgment, has taken place. The statement is recorded in the School Board minutes.

H. Failure of the certification required in Section F above, to receive the affirmative vote of a majority of the members of the School Board present during a closed meeting does not affect the validity or confidentiality of such meeting with respect to matters considered therein in compliance with these provisions. The recorded vote and any statement made in connection therewith, upon proper authentication, constitutes evidence in any proceeding brought to enforce these provisions.

I. The School Board may permit non-members to attend a closed session if such persons are deemed necessary or if their presence will reasonably aid the School Board in its consideration of a topic which is a subject of the meeting.

J. Except as specifically authorized by law, in no event may the School Board or committee thereof take action on matters discussed in any closed meeting, except at an open meeting for which notice was given pursuant to Va. Code § 2.2-3707.

K. The School Board is subject to a civil penalty of up to ~~\$100~~ \$1000 if a court finds that the Board voted to certify a closed meeting in accordance with Section F above and such certifications was not in accordance with FOIA. (Adopted: June 8, 1995; Revised March 12, 2009; Ordinance Number 08/09-27; Effective Date: July 1, 2009; Revised April 14, 2016; Ordinance Number 15/16-19; Effective Date: July 1, 2016; Revised September 8, 2016; Ordinance Number 16/17-4; Effective Date: July 1, 2017; Revised October 12, 2017; Ordinance Number 17/18-4; Effective Date: October 12, 2017; Revised October 10, 2019; Ordinance Number 19/20-13; Effective Date: October 10, 2019; Ordinance 21/22-15; Revised August 12, 2021)

**Legal Authority** - Virginia Code §§ 2.2-3701, 2.2-3712 and 2.2-3714, (1950), as amended.