



# The Roadmap: Your Meeting Agenda

ASAP One Day Workshop

September 24, 2021



- BEDB

- BEDBA

- A.R.S. 38-431

# ARIZONA AGENCY HANDBOOK



# Who decides what is on the agenda?

- ASBA Policy provides that:
  - Superintendent prepares agenda in consultation with Board President (who represents the entire board in process).
  - Board members providing an item for consideration of placement on the agenda will notify the Superintendent of the particular item of business at least five (5) working days before meeting.
- Also provided in Policy BEDBA:
  - Notice, agenda and supporting documents shall be distributed to Board members not less than 24 hours before meeting.
  - Upon request, copies of the agenda shall be available to the public and the press.



Arizona School Boards Association

**2021**

Calendar of  
Recommended and Required Actions  
by  
Arizona School Districts

*Provided as an informational publication by  
Arizona School Boards Association  
Policy Services  
for use by its subscriber members*

# Writing the Agenda

- **“Agendas... shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.”**
  - **A.R.S. §38-431.02 (H)**
- List the specific matters to be discussed, considered, or decided at the meeting.
  - Agenda needs to say which of these (or all) that the board may accomplish.
  - Agenda must say “decision,” or “action,” or “vote” in order to be able to vote on an item.
  - Indicate in some way on the agenda which items are action items, and which are discussion-only items.
- Good practice is to put any item that could be subject to action as an action item. The Board can always vote to table or continue discussion.

# Future Agenda Items

- May have an agenda item to ask for items to be placed on the next agenda.
  - Members should identify topics only.
  - Not the time to discuss the merits of the topic or propose legal action on the item.
  - Gives everyone a chance to have input in the agenda setting process.
- 
- ASBA Policy places this under “Information items” and specifies that “*the Board will not propose, discuss, or take legal action during the meeting.*”

# Board/Superintendent Current Event Summaries

- ...[T]he chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:
  - 1.** The summary is listed on the agenda.
  - 2.** The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.
- A.R.S. §38-431.02 (K)



# Board/Superintendent Current Event Summaries

- The general rule is that reports listed on the agenda must contain such specificity so that a member of the public can understand in advance the nature and substance of what information will be presented.
- However, “current event summaries,” in which board members or the chief executive (the Superintendent) can give a report without delineating specifically on the agenda what will be reported, are allowed, if:
  1. There is reference on the agenda that a report will be given.
  2. The report is a one-way communication where there is no discussion by board members about anything raised in the report.

# Board/Superintendent Current Event Summaries

- Such summaries are intended for items that do not generate a significant amount of interest from the board or from the public.
  - If there is interest, it can always be asked that the matter be placed on a future agenda.
- The summaries are only for superintendents or board members.
  - Other kinds of reports must be placed on the agenda with enumerated topics that meet the notice requirements of Open Meeting Law.
  - The current event summaries exception cannot be used by the superintendent to “hand off” their report to someone else (e.g. the business manager).

# Board/Superintendent Current Event Summaries

- Unacceptable use of the current event summary exception:
  - Budget report
  - Transportation report
  - Principal's report
- Acceptable use of the current event summary exception:
  - Board member attendance at school or community events
  - Board member reports following attendance at ASBA conference
  - Board member/superintendent "shout outs" to staff, volunteers, and/or parents to acknowledge good deeds
  - Acknowledging/celebrating student athletic or academic achievements

# Consent Agendas

- The consent agenda is a tool used to streamline meeting procedures by collecting routine, non-controversial items into a group whereby all are passed with a single motion and vote.
- The proper use of a consent agenda allows the board more time to focus on substantive issues and delineates delegable duties from non-delegable duties.
- Policy BEDB places consent agenda items first under “Action items” and explains that “when so presented, [consent agenda items] should fully describe the matters on the agenda and inform the public where more information can be obtained.”

# Consent Agendas

- Only items that do not require strategic thought, discussion, or action should go on the consent agenda.
  - Board minutes
  - Second reading of policies (do not use the consent agenda for both readings of policies)
  - Approval of payment vouchers, new hires/resignations of non-director level staff, approval of contracts
  - Committee/staff reports
- Controversial issues, matters of high public concern, or matters where any board member will have an interest and want to discuss should not go on the consent agenda.
  - Budget adoption
  - Approval of hires in which there is public interest
  - Approval of the superintendent contract/evaluation

# Consent Agendas

- Questions and clarifications on consent agenda items should be made by board members to the superintendent/board president prior to the board meeting. Items should not be removed from the consent agenda just for clarifying questions. If a question on a consent agenda item is answered prior to a meeting, it should be forwarded to all board members.
- There should be no discussion on a consent agenda item unless the matter is moved to another part of the agenda.
- In order to promote public transparency, an item should not be moved to the consent agenda if prior notice has been given that item will be discussed as part of regular agenda.

# Consent Agendas

- Best practice is that any one board member can remove a consent agenda item for discussion or separate action. He or she can be required to provide prior notice before doing so.
  - Adoption of board agenda at the beginning of the meeting is a good time to request an item be removed from the consent agenda in order to give public ample notice.
- Adoption of the consent agenda requires a motion and a second, just as with any agenda item. The entire consent agenda is adopted in one motion.
  - If a consent agenda item has been removed, a motion should be made to accept the consent agenda with the exception of the item.

# Executive Sessions

**"Executive session" means a gathering of a quorum of members of a public body from which the public is excluded.**

- An executive session can only occur if one or more authorized reasons and all procedures are met.**



# Executive Sessions – Provisions of Law

- 1. Personnel Matters**
  - 2. Confidential Records**
  - 3. Legal Advice**
  - 4. Litigation, Contract Negotiations, and Settlement Discussions**
  - 5. Discussions with Designated Representatives Regarding Salary Negotiations**
  - 6. International, Interstate, and Tribal Negotiations**
  - 7. Purchase, Sale or Lease of Real Property**
  - 8. Discussion or consideration of matters relating to school safety operations or school safety plans or programs.**
- 1. A.R.S. § 38-431.03(A)(1)**
  - 2. A.R.S. § 38-431.03(A)(2)**
  - 3. A.R.S. § 38-431.03(A)(3)**
  - 4. A.R.S. § 38-431.03(A)(4)**
  - 5. A.R.S. § 38-431.03(A)(5)**
  - 6. A.R.S. § 38-431.03(A)(6)**
  - 7. A.R.S. § 38-431.03(A)(7)**
  - 8. A.R.S. § 38-431.03(A)(8)**

# Student Discipline – The Ninth Executive Session

- Not covered under the Open Meeting Law
- Discussion can be in an executive session under A.R.S. 15-843
- Parent has right to attend, can also demand it be in public
- Typically for serious student disciplinary matters – long term suspensions or expulsions
- Most boards review hearing officer recommendation – they do not serve as hearing officer themselves.

# Executive Sessions

Policy BEDB

## ***Executive sessions:***

An executive session may be scheduled, as necessary, during either a regular or special meeting. (*See Arizona Attorney General Agency Handbook Section 7.6.7.*)

1. When an executive session is to be held, the notice must state the specific provision of law authorizing the executive session.
2. 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. 38-431.03(A)(3).

# Executive Sessions

- Many public bodies do not know whether they will have any legal questions regarding matters on the agenda until the discussion occurs.
- The Attorney General allows public bodies to provide with their notices and agendas a statement that matters on the public meeting agenda may be discussed in executive session for the purpose of obtaining legal advice thereon, pursuant to A.R.S. § 38-431.03(A)(3).
  - An example of such a statement is "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. § 38-431.03(A)(3)."
  - ***Similar statements are not sufficient for other types of executive sessions.***

# Executive Sessions

- *If it is likely* that the public body will find it necessary to discuss any particular agenda item in executive session with the public body's attorney, the agenda should plainly state so, even if the general notice of executive session for legal advice is on the agenda.
- For example, the agenda might include a provision stating, "The Board may vote to hold an executive session for the purpose of obtaining legal advice from the Board's attorney on the approval of pesticides for application within  $\frac{1}{4}$  mile of a school pursuant to A.R.S. § 38-431.03(A)(3)."


# Executive Sessions

- The agenda for an executive session must contain a "general description of the matters to be considered." A.R.S. § 38-431.02(I).
- The description must amount to more than just a recital of the statutory provisions authorizing the executive session but should not contain any information that "would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege."
- In preparing executive session agenda items, the public body must weigh the legislative policy favoring public disclosure and the legitimate confidentiality concerns underlying the executive session provision.

# *Example Executive Session in Agenda*

## **G. Executive Session**

1. Upon a public majority vote of members constituting a quorum, the Governing Board may hold an Executive Session. To comply with A.R.S. 38-431.03 (B), all electronic devices, including cell and smart phones, iPads, notebooks, tablets and laptops shall be turned off and stored during Executive Session. During this Executive Session, the following matters will be addressed: a) Pursuant to A.R.S. 38-431.03(A)(3), (4) and (7), the Board will discuss with, consult with, obtain legal advice from and may instruct its attorneys and real estate representatives regarding the status of and issues related to negotiation of a potential lease agreement with Highland Academy.
2. Resume to Regular Session



# The Roadmap: Your Meeting Agenda

ASAP One Day Workshop

September 24, 2021