



The Board of Trustees has the authority, pursuant to ORS 192.660, to meet in executive session when considering certain matters. The Chair of a given meeting shall have discretion, consistent with applicable law, to determine whether a Committee or the full Board should meet in executive session. **When the Chair of a meeting determines an executive session is appropriate, he/she shall follow the following procedure:**

- The Chair shall announce that the meeting is going into executive session per ORS 192.660 and cite the reason(s) for and statute(s) authorizing an executive session for each subject to be discussed;
- The Chair or Secretary will specify individuals that may remain in the meeting;
- The Chair or Secretary shall instruct the news media on specific executive session subjects about which they may not disclose;
- The Chair or Secretary shall also notify news media that they are prohibited from making audio or visual recordings of the executive session;
- The Chair and/or Secretary shall notify news media that they are excluded from executive session if the discussion is about litigation and the news media representative involved in the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation;
- The Chair and/or Secretary shall determine whether the executive session is recorded or whether minutes shall be kept. If a recording is made, the Secretary shall specify on the recording when the executive session begins and ends; and
- At the conclusion of executive session, the Secretary shall notify all other members of the audience that the open meeting is back in session.

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The list below is intended to provide an overview of instances when the Board or one of its committees may meet in executive session; this list is not exclusive.

- **Employment of Public Officers, Employees and Agents:** The Board of Trustees may hold an executive session to consider the employment of a public officer, employee, staff member or individual agent, if the body has satisfied certain prerequisites. ORS 192.660(2)(a). This applies to employment of the chief executive officer, other public officers, employees, and staff members of any public body only if the vacancy for the position has been advertised, regular procedures for hiring have been adopted, and, for a public officer, the public has had opportunity to comment on the employment.
- **Discipline of Public Officers and Employees:** The Board of Trustees may hold an executive session to consider the dismissal or disciplining of a public officer, employee, staff member or individual agent, or hear complaints or charges brought against such a person, if that person does not request an open hearing. In order to permit the affected person to request an open hearing, that person must have sufficient advance notice of the purpose of the meeting and the right to choose whether he or she wants the meeting to be in executive session or in an open session. ORS 192.660(2)(b).

- **Labor Negotiator Consultations:** The Board of Trustees may hold an executive session to deliberate with persons designated by the Board to carry on labor negotiations. The media may be excluded from such a session pursuant to ORS 192.660(4). This statute does not apply to holding executive session to meet with the employees’ negotiator; this authority is discussed in a later section under labor negotiations.
- **Real Property Transactions:** The Board of Trustees may go into executive session to deliberate with persons designated to negotiate real property transactions. Real property transactions are not limited to the purchase or sale of real property. An example of this would be long-term lease transactions. The executive session must be limited to discussions of negotiations regarding specific real property and may not include discussion of long-term space needs or general policies concerning lease sites. ORS 192.660(2)(e).
- **Exempt Public Records:** The Board of Trustees may go into executive session to consider “information or records that are exempt by law from public inspection.” ORS 192.660(2)(f). The “law” that exempts records from public inspection is the Public Records Law, specifically ORS 192.445, 192.447, 192.496, 192.501 and 192.502. Unless a record is exempt from disclosure under these statutes, the Board of Trustees may not consider the record in executive session under ORS 192.660(2)(f).
- **Legal Counsel:** The Board of Trustees may go into executive session for consultation with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. ORS 192.660(2)(h).
- **Performance Evaluations of Public Officers and Employees:** The Board of Trustees may hold an executive session to evaluate and review the job performance of a chief executive officer, other officers, employees, and staff, if the person whose performance is being reviewed and evaluated does not request an open hearing. ORS 192.660(2)(i).
- **Public Investments:** The Board of Trustees may hold an executive session in order to carry on negotiations with private businesses or persons regarding proposed acquisition, exchange or liquidation of public investments pursuant to ORS 192.660(2)(j). This authority to negotiate with private parties in executive session does not permit the Board to take final action or to make a final decision in executive session. ORS 192.660(6).
- **Security Programs:** The Board of Trustees may go into executive session to “discuss information about review or approval of programs relating to the security” of a number of specified structures, activities, and materials relevant to the operation of the state’s infrastructure. ORS 192.660(2)(m).
- **Labor Negotiations:** On occasions when the Board is engaged in labor negotiations with employees’ representatives, it may do so in executive session. ORS 192.660(2)(d). Normally, designated representatives of both parties meet at the bargaining table, in which circumstance, the meeting is not held by the Board and the Public Meetings Law does not apply.
- **Other Executive Session Statutes:** Additional statutes may also set forth instances when the Board of Trustees may go into executive session. For example, ORS 332.061 authorizes an executive session, excluding media, when the Board considers student expulsion or medical records of students.