

ARTICLE 2A. MEETINGS IN EXECUTIVE SESSION

(New Section 2011.)

2A.1 Purposes for which an Executive Session May be Convened. A public body may meet in executive session only for the following purposes:

(1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the board at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

- i. to be present at such executive session during deliberations which involve that individual;
- ii. to have counsel or a representative of their own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
- iii. to speak on their own behalf; and
- iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that they may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

- (2) To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
- (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
- (4) To discuss the deployment of security personnel or devices, or strategies with respect thereto;
- (5) To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
- (6) To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
- (7) To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
- (8) To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;
- (9) To meet or confer with a duly qualified mediator, as defined in G.L. c. 233, § 23C, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
 - i. any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
 - ii. no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session;

(10) To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by the municipal light plant, when the Municipal Light Board determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

2A.2 Procedure for Entering and Exiting Executive Session. A public body may meet in executive session for one or more of the purposes enumerated above provided that:

- (1) the public body has first convened in an open session;
- (2) a majority of members of the public body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
- (3) before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- (4) the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and accurate records of the executive session shall be maintained as required pursuant to G.L. c. 30A, §23.