

1 March, 2025

# Trustee Tale

Trustee Tale is a joint project of the Manitowoc Calumet Library System, Nicolet Federated Library System, Outagamie Waupaca Library System, Winnefox Library System and Wisconsin Valley Library System.

If you have questions, comments, or suggestions for future articles, contact your system director.

## The Library Board and Closed Sessions

The State of Wisconsin recognized the importance of having a public informed about governmental affairs and adopted policies to ensure the public is receiving the fullest and most complete information regarding the affairs of government. In order to advance this policy, the open meetings law requires that “all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.” Thus, there is a presumption that meetings of governmental bodies must be held in open session.

Although there are exemptions allowing closed sessions in specified circumstances, they are to be invoked sparingly and only where necessary to protect the public interest. The policy of the open meetings law dictates that governmental bodies convene in closed session only where holding an open session would be incompatible with the conduct of governmental affairs. “Mere government inconvenience is . . . no bar to the requirements of the law.”



### **Legal Reasons for Conducting a Closed Session**

Wisconsin Statutes Section 19.85 provides exemptions for meeting the open meetings law requirements. The most common reason for a closed session is to consider personnel-related issues. For most personnel-related issues, the relevant exemption is provided in Wisconsin Statutes Section 19.85(1)(c), which allows closed sessions when the employment, promotion, compensation, or performance evaluation data of any public employee, or prospective employee, is being considered. A closed session is not allowed for purposes of considering general personnel policies or general staff compensation decisions, such as the general library staff salary scale.

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Employee compensation discussions may be closed only when they concern a particular employee or prospective employee.

Library boards should be aware that if they will be considering the dismissal, demotion, or discipline of an employee, a closed session is possible under Section 19.85(1)(b), but the board must give the employee notice of any evidentiary hearing to be held prior to final action and to any meeting at which final action might be taken. The notice to the employee must include a statement that the employee can demand that the evidentiary hearing or meeting be held in open session.

In addition to the two personnel-related exemptions discussed above, closed sessions can be held for other reasons, including the following:

- Deliberating or negotiating the purchase of public properties, the investment of public funds, or the conduct of other specified public business, whenever competitive or bargaining reasons require a closed session.
- Preliminary consideration of specific personnel problems or the investigation of charges that would negatively affect the reputation of the person involved.
- Conferring with legal counsel with respect to litigation.
- Consideration of requests for confidential written advice from an ethics board.

### **Procedures for Holding a Closed Session**

The following steps are all required for a library board to conduct a closed session legally:

- The meeting notice must indicate any contemplated closed session, the subject matter of the closed session discussion, and the specific statutory provision allowing a closed session. If a closed session was not planned, a board may still go into closed session on any subject contained in the meeting notice, whether the notice provides for a closed session or not, if the board follows the procedures below.
- The board must first convene in open session.
- The board president must announce to all present at the meeting the intention of going into closed session and the purpose of the closed session.
- The board president must state the specific section of the law, by statute number (e.g., Section 19.85(1)(c) for a director evaluation session), which allows for the closed meeting. This announcement should be recorded in the minutes. It is good practice for library staff to prepare in advance the exact wording of the announcement to be used.
- Going into closed session requires a motion, second, and roll call vote to reconvene in closed session. The vote of each board member on this motion must be recorded in the minutes and preserved. A majority vote is required to reconvene in closed session.
- Attendance at the closed session is limited to the board, necessary staff, and any other persons whose presence is needed for the business at hand.
- Closed session discussions must be limited to the subject announced in the meeting notice and the board president's announcement.

- The board may adjourn closed session and reconvene in open session. If there was no advance public notice given that the board intended to reconvene in open session, the board is required to wait at least 12 hours after the completion of the closed session before reconvening in open session.

## **Closed Session Voting & Minutes**

The Wisconsin Attorney General advises that a governmental body vote in open session, unless the vote is clearly an integral part of deliberations authorized to be conducted in closed session under Wis. Stat. § 19.85(1). Stated another way, a governmental body should vote in open session, unless doing so would compromise the need for the closed session.

The open meetings law requires a governmental body to create and preserve a record of all motions and roll-call votes at its meetings. This requirement applies to both open and closed sessions. Because the records law contains no general exemption for records created during a closed session, the meeting minutes must reflect the final votes taken by the board in closed session, although the minutes can redact all confidential information that was discussed in closed session.

For more information see the [Attorney General's Wisconsin Open Meetings Law Compliance Guide](#)