

 Interstate Commission for Adult Offender Supervision	Policy Number 01-2009	Page Number: 1
ICAOS Administrative Policy Guidelines for Handling Closed Session Minutes		Dated: 01/13/2009

I. Purpose

The ICAOS compact statute contains open meetings act requirements including a provision which specifies that minutes must be kept of all meetings of the Commission and its committees whether the meetings are open or permitted by statute to be closed. While some discussions are appropriate for open sessions, others, because of their nature, such as the regulation of employees, investigation, compliance and enforcement actions, and litigation, are often best discussed in a closed session environment; the ICAOS statute also restricts and limits the circumstances under which the Commission and its committees may meet in closed session. The law is based on the policy that the public right to attend and observe meetings must be respected, consistent with the conduct of governmental business.

This policy outlines the protocol for recording, publishing, and retaining closed session minutes for the Interstate Commission for Adult Offender Supervision or its committees.

II. Conducting a Closed Session

In order for the Commission or a committee to lawfully meet in closed session, all of the following conditions must be satisfied:

1. the Commission or committee must provide legally-sufficient basis for closing the meeting;
2. the Commission or committee must identify the specific subject matter as provided by the compact which provides a basis for the anticipated closed session;
3. the meeting must start in open session and then properly reconvenes in closed session;
4. the motion to meet in closed session (and the vote on that motion) must be recorded in the official minutes of the meeting

A closed meeting, therefore, can be held only by specific action of the Commission or committee seeking to do so.

If the Commission or committee is **aware** of an item or items to be discussed at a closed session in advance of the notice and agenda being circulated, they should also include the statement that it is contemplated that the body will meet in closed session (this statement must also identify the subject matter and the statutory basis of this closed session).

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At the meeting, the chair should say, “I will now entertain a motion to reconvene in closed session to review the following matter _____.” When a chair entertains this motion to reconvene in closed session, the chair (with assistance from counsel, if necessary), should specifically cite the appropriate sections of the ICAOS statute that authorizes this closed meeting [i.e., most likely compact Article VII]. The meeting minutes must record the motion as offered and seconded to convene in a closed session. Further, this motion “...shall be carried by majority vote in a manner that the vote of each member is ascertained and recorded in the minutes” In the event the motion fails, the meeting must be conducted in open session. If the motion passes, the meeting will then be closed, with only members of the Commission or committee or individuals invited by the Commission or committee being eligible to attend. Secret ballots may not be cast. Balloting can proceed in the following manner: a show of hands; signed ballots that will be saved and attached to the minutes; or each person’s vote can be recorded in the minutes; or a roll call vote, if requested by at least one member, with each person’s vote recorded in the minutes. In general, you may not close a meeting and immediately reconvene again in open session, **unless the meeting is one in which a closed session is a general business meeting at which other non-confidential items, not subject to the closed meeting requirements are on the agenda.**

III. Distributing Closed Session Minutes

Once closed session Minutes are available, they may be distributed to official Commission or Committee members via email or hardcopy. However care should be taken to limit access to such meeting by non-Commission or non-Committee members and such minutes should be appropriately addressed and labeled as “*For Your Eyes Only*” or “*Personal and Confidential*”

IV. Preservation and Retention of Closed Session Minutes

Minutes of closed sessions of the Commission or its committees shall remain confidential until it is determined that such records no longer require confidential treatment and are approved for release. The Commission or its Committees should review closed session Minutes periodically, but no less than semi-annually, and the review may take place in closed session to determine whether there is still a need for confidentiality as to all or part of those Minutes. Such review should be conducted in consultation with legal counsel to the Commission. If there is no need for such confidentiality, then it can be reported in an open session that the Minutes or portions thereof no longer require confidential treatment and are available for public inspection.

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In some cases, closed session Minutes may be recorded with such generality as to not reveal any confidential details, but simply communicate general information. In such instances, it would be appropriate for the Minutes to be approved and released in open session along with open session Minutes.

Retaining the records for all Minutes of the Commission and its committees is the responsibility of the National Office. It is practice for Minutes to be posted to the Commission's website once approved. In situations where closed session Minutes are recorded and approved, the National Office will keep those minutes filed separately.