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# Missouri Sunshine Law: Closed Meeting Requirements

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### Disclaimer:

- This presentation is meant as a summary of relevant provisions of the Sunshine Law; not an official opinion of the AGO. In providing this presentation, we do not suggest that we are providing you legal advice or otherwise treating you as a client of the Attorney General's Office.



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# Closed Meetings



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### Closed Meetings

- The Missouri Sunshine Law allows for a public governmental body to go into closed session to discuss certain topics
- This presentation will cover the Sunshine Law's requirements for hosting a Closed Meeting



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# Closed Meeting Notice



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### Closed Meeting Notice

- The body will need to provide a notice for all closed meetings
- The notice will need to be given at least twenty-four hours in advance of the meeting, exclusive of weekends and holidays

• §610.020.2, [Page 34]



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### Closed Meeting Notice

- The notice will need to cite to a specific authorization in law, that allows the public governmental body to go into closed session
- §610.020.2, [Page 34]



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### Meeting Notice Example

- (Insert date and time notice was posted)
- Notice is hereby given that the **(insert name of public governmental body)** will conduct a meeting at **(insert time)** on **(insert time)** on **(insert day, month, and year)** at **(insert place where meeting is to be held, or, if the meeting will be conducted by telephone or other electronic means, the location where the public may observe and attend the meeting or directions to access the meeting electronically).**
- The tentative agenda of this meeting includes (list topics):
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_
- The tentative agenda of this meeting also includes a vote to close part of this meeting pursuant to **(insert statutory authority, including specific subsection of Section 610.021, RSMo, for vote to close meeting).**





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# Closed Meeting Authorizations



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### Common Closed Meeting Authorizations

- 610.021(1) Legal
  - 610.021(2) Real Estate\*
  - 610.021(11) Bid Process
  - 610.021(12) Sealed Bids & Contracts
  - 610.021(17) Auditor
- 
- §610.021, [Pages 35-39]



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### Common Closed Meeting Authorizations

- 610.021(3) Hiring, Firing, Disciplining or Promoting
  - 610.021(13) Personnel Records
- 
- §610.021, [Pages 35-39]



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### Closed Meeting Authorizations

610.021(14)“Records which are protected from disclosure by law;”

- This cannot be used as a stand alone exception
- Used in conjunction with other laws

Ex: FERPA, DPPA, HIPAA, etc.



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# Process for Closing a Meeting



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### Closing a Meeting

- Have an affirmative public vote of the majority of a quorum of a public governmental body in open session with reference to a specific section of 610.021
- Post a meeting notice with reference to a specific section of 610.021
  - § 610.022.(1) & (2), [Page 39]



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### Closing a Meeting

- Kansas City Star Co. V. Fulson, 859 S.W.2d 934, 942 Mo. (App. 1993)



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### Practical Tips

- While the two subsections appear to operate independently, it may be useful for an agency to apply both processes when closing a meeting
- By announcing a closed meeting with a public notice, including the citation of the specific provision allowing the closure; along with having a vote during open session to close a portion of the meeting, there can be little doubt as to the propriety of the closure





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# Closed Meeting Considerations



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### Close Meetings Only as Necessary

- Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote.

- § 610.022.3, [Page 39]



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### Attorney Present

- Having an attorney present does not automatically close a meeting
- Closure under 610.021(1)
- § 610.022.3, [Page 39]



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### Location

- “Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.”
- § 610.022.3, [Page 39]



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### Objection

- A member of the public governmental body can object to closing a portion of the meeting.
- If a member objects their objection is required to be recorded in the body's meeting minutes
- "any member making such an objection shall be allowed to full participate in any meeting, record or vote that issue."

- § 610.022.6, [Page 40]



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### Sample Objection Form

- Dear (insert name of custodian or other person responsible for keeping minutes):
- Having objected to the motion to close the meeting of (insert name of public governmental body) on (insert day, month, and year) and having made this objection prior to the vote to close the meeting, I wish to have my objection entered into the minutes for that date.
- Signature of member\_\_\_\_\_
- Insert name of member\_\_\_\_\_



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# Closed Meeting Minutes



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### Requirements for Meeting Minutes

- A public governmental body is required to create and retain meeting minutes for their closed meetings.
- Depending upon the authorization used to close the meeting the minutes could become an open record at some point in the future





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### Requirements for Meeting Minutes

- Date
  - Time
  - Place
  - Members Present/Absent
  - Record of all votes taken (including the vote to close)
    - Including a record of each member's individual vote cast during a roll-call
- § 610.020.7, [Page 35]



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### Roll Call Votes

- Roll Call Votes
- “...Any votes taken during a closed meeting shall be taken by roll call...”
  - § 610.015, [Page 33]



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### Approving Closed Meeting Minutes

- Discussion of closed minutes may need to be taken up in a closed session, and approved in closed session
- Closed meeting minutes can be approved in open session



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**No Requirement for  
Closed Meetings**



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### Closure is Not Required for Meetings

- “Nothing in sections 610.010 to 610.028 shall be construed as to require a public governmental body to hold a closed meeting, record or vote to discuss or act upon any matter.”
- § 610.022.4, [Page 39]



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