

New Employee Orientation – August 2025

Closed Sessions for SWCDs

Open Meetings Law

- *“Government transparency is at the heart of the Open Meetings Law. All official meetings of public bodies and decision-making by public bodies must be conducted openly to give meaning to the state’s official policy that government operations are the people’s business. Forth this reason, the Open Meetings Law requires notice of meetings, public access to meetings, and record-keeping of meetings through minutes.”*



What meetings must be open and public?

- An official meeting is defined as a meeting, assembly or gathering together of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, voting upon public business, or otherwise transacting public business
- If a majority of the public body's members get together for one of these purposes, it is an official meeting subject to Open Meetings Law, regardless of when or where the meeting occurs
- The open meetings law states that each official meeting of a public body must be open to the public, and any person is entitled to attend an official meeting

But things can get complicated in SWCD offices...



FEDERAL RECORDS ARE NOT COVERED BY NORTH CAROLINA PUBLIC RECORDS LAW



FEDERAL FILES, OR PORTIONS OF DISTRICT FILES, HOUSED IN LOCAL SOIL AND WATER CONSERVATION DISTRICTS MAY BE PROTECTED BY SECTION 1619 OF THE 2008 FARM BILL AND NC GENERAL STATUTE 139-8.2



DISTRICTS ARE ENCOURAGED TO USE FILING SYSTEMS WHERE FEDERAL RECORDS ARE FILED SEPARATELY FROM DISTRICT RECORDS

Freedom of Information Act (FOIA)

Section 1619 of the 2008 Farm Bill

NC General Statute 139-8.2

Common Federal Records



Conservation plans



Federal program
contract
information



Job sheets



Documents signed
by or under the
authority of NRCS



Correspondence
on federal
letterhead



Federal forms



Information
generated on
federal system or
housed in the
federal system

Protected Information

Section 1619 and 139-8.2

- Farm, tract, field, and federal contract numbers
- Geospatial information
- Resource data
- Designs
- Assistance notes
- Acreage amounts

PII Under NC Public Records Law

- Social security numbers
- Personal financial information
- Driver's license number
- Personal identification numbers and passwords
- Medical or biometric records

Must public bodies keep minutes?

- Every public body is required to keep full, accurate minutes of all portions of all official meetings, including closed sessions
- Minutes may be kept in writing, or in the form of audio or video recordings
- Minutes are public records, subject to public inspection and copying
- Public bodies must keep a “general account” of what takes place in closed session
- The “general account” of closed sessions are public records, but they may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session

Closed Sessions

1

Local soil and water conservation district boards are public bodies and are subject to North Carolina's Open Meetings Law

2

There are specific situations where boards may go into closed session and exclude the public

3

The law makes provisions for privacy when open sessions might harm public interests or an individual's privacy

Permitted purposes for Closed Session

- *To prevent disclosure of...*
- **1) information that is privileged or confidential pursuant to the law... or not considered a public record within the meaning of Chapter 132**
- (2) an honorary degree, scholarship, prize or award
- **(3) attorney-client privilege**
- (4) location or expansion of industries
- (5) negotiating the price or proposed contract for real property, or an employment contract
- **(6) to consider qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee; or to hear or investigate a complaint, charge or grievance by or against an individual public officer or employee**
- (7) investigations of alleged criminal misconduct
- (8) local board of education plans regarding school violence
- (9) plans to protect public safety related to terrorist activity
- (10) view a recording released pursuant to G.S. 132-1.4A

Calling a Closed Session



A closed session may only be held when a proper motion is made and adopted during any of the board's open meetings



The proper motion will state a purpose of one of the ten legislated and permissible reasons. If the reason for the closed session is an item made confidential by state or federal law, the motion may also identify the specific law by name



The board may ask other people to assist the board by attending the closed session



Closed session minutes should give a general account of subjects discussed and capture any action taken



The board should only address the item cited in the motion during the closed session

Closed Session Language

“We have a motion and a second to go into closed session to prevent disclosure of information that is privileged or confidential. The information to be reviewed is protected by Section 1619 of the 2008 Farm Bill and NC General Statute 139-8.2.

All those in favor say “aye”.

Motion carries.

This board will now go into closed session. We would like for our district staff and NRCS partner to please remain seated and assist us with this issue.”

Returning to Open Session

When the protected topic is finished, the board should make a motion to return to open session

At this point, decisions related to state cost share should be made; application or contract approvals **must** be handled in open session

The board may not adjourn from closed session; this should be done back in the open meeting

For More Information...



NC General Statute
132 and 139-8.2



NC Open
Government Guide



Public Records
Request Guidance
for SWCDs



NC General Statute
143 Article 33C



Coates' Canons –
canons.sog.unc.edu