

## Executive Session Motion Citations – A Quick Guide

Under Maine's Freedom of Access Act, every motion to go into executive session must "include a citation of one or more sources of statutory authority or other authority that permits an executive session for that business." 1 M.R.S.A. § 405(4). This is in addition to the longstanding requirement that the motion "indicate the precise nature of the business of the executive session."

A December 2004 Legal Note in the *Maine Townsman* contains a sample motion to go into executive session to discuss a personnel matter. ("I move that the board go into executive session pursuant to 1 M.R.S.A. § 405(6)(A) to discuss the appointment of a new town manager.") This motion identifies both the subject matter of the discussion **and** the statute that authorizes it to be discussed in executive session. It is specific enough to enable the public (and the board) to determine that the executive session is lawful, without revealing so much that the purpose of the executive session is compromised.) However, what citation do you use if your board or commission needs to go into executive session for any other reason? See below for a quick guide to statutory citations to help you properly move to go into executive session.

<b>Reason for Executive Session</b>	<b>Statutory Citation</b>
Personnel Matters	1 M.R.S.A. § 405(6)(A)
Suspension or expulsion of a public school student	1 M.R.S.A. § 405(6)(B)
Acquisition of real property or economic development	1 M.R.S.A. § 405(6)(C)
Labor negotiations	1 M.R.S.A. § 405(6)(D)
Consultations with legal counsel	1 M.R.S.A. § 405(6)(E)
Discussion of confidential records	1 M.R.S.A. § 405(6)(F)
<p>(However, this section of the Freedom of Access Act at present does not also reference each of the State laws that make these records confidential, and this reference should be added to make the citation complete. Legislative staff is supposed to prepare a bill for the Legislature to enact that will list all of these records that are made confidential by statute, but until such an amendment is passed, consult your municipal attorney or MMA Legal Services for the legal citation to the statute that makes a particular record confidential.)</p>	
Discussion of examination results	1 M.R.S.A. § 405(6)(G)
Consultation with code enforcement officer on pending enforcement matter in District Court	1 M.R.S.A. § 405(6)(H)