

Opinion No. 91-070

March 26, 1991

The Honorable Neely Cassady  
State Senator  
P.O. Box 1810  
Nashville, Arkansas 71852

Dear Senator Cassady:

This is in response to your request for an opinion on two questions concerning the Arkansas Freedom of Information Act, (FOIA) codified at A.C.A. §25-19-101 et seq. Specifically, your questions are as follows:

Can a school board meet in executive session to discuss 'blanket' hirings of certified personnel, or is the executive session ONLY for consideration of individual cases? If they go into executive session to consider a personnel matter, must they name the person or position in the motion for executive session?

In response to your first question, it is my opinion that executive sessions may be held only to discuss personnel matters concerning individual employees. See Opinion No. 87-080, a copy of which is enclosed, and Commercial Printing Company v. Rush, 261 Ark. 468, 549 S.W.2d 790 (1977). The executive session must revolve around a specific individual or individuals. See also Watkins, The Arkansas Freedom of Information Act (1988) at 160.

Thus, executive sessions may not be held to discuss "blanket" hirings of certified personnel.

In response to your second question, we can find no state law requirement that a local school board identify, in its motion for executive session, the name or position of the individual to be considered. The school board's own rules of internal procedure, however, should be consulted. See generally, Yandell v. Havana Board of Education, 266 Ark. 434, 585 S.W.2d 927 (1979).

We should note, however, that the FOIA requires the governing body to reconvene in public session to vote publicly on any resolution, ordinance, rule, contract, regulation, or motion considered or arrived at in the executive session. A.C.A.

The Honorable Neely Cassady  
State Senator  
Opinion No. 91-070  
Page 2

§25-19-106 (c)(4). The legality of any measure adopted depends upon this public vote. In my opinion, at this point in the proceedings, but not necessarily at its motion to go into executive session, the public body must disclose the person and/or position discussed in the executive session. This requirement appears necessary in order to give the public a full and complete understanding of what action was taken in the executive session.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Elana L. Cunningham.

Sincerely,

WINSTON BRYANT  
Attorney General

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