

§ 702.54 Closed meeting procedures.

(a) A meeting or portion thereof will be closed, and information pertaining to a closed meeting will be withheld, only after four Commissioners when no Commissioner's position is vacant, three Commissioners when there is a vacancy, or two Commissioners on a subcommittee authorized under 42 U.S.C. 1975a(e)(1), vote to take such action.

(b)(1) A separate vote shall be taken with respect to each meeting, a portion or portions of which are proposed to be closed to the public under § 702.53, and with respect to any information to be withheld under § 702.53.

(2) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as:

(i) Each meeting in such series involves the same particular matters, and

(ii) Is scheduled to be held no more than thirty (30) days after the initial meeting in such series.

(c) The Commission will vote on the question of closing a meeting or portion thereof and withholding information under paragraph (b) of this section if one Commissioner calls for such a vote. The vote of each Commissioner participating in a vote to close a meeting shall be recorded and no proxies shall be allowed.

(1) If such vote is against closing a meeting and withholding information, the Staff Director, within one working day of such vote, shall make publicly available by putting in a place easily accessible to the public a written copy of such vote reflecting the vote of each Commissioner.

(2) If such vote is for closing a meeting and withholding information, the Staff Director, within one working day of such vote, shall make publicly available by putting in a place easily accessible to the public a written copy of such vote reflecting the vote of each Commissioner, and:

(i) A full written explanation of the decision to close the meeting or portions thereof (such explanation will be as detailed as possible without revealing the exempt information);

(ii) A list of all persons other than staff members expected to attend the meeting and their affiliation (the identity of persons expected to attend such meeting will be withheld only if revealing their identity would reveal the exempt information that is the subject of the closed meeting).

(d) Prior to any vote to close a meeting or portion thereof under paragraph (c) of this section, the Commissioners shall obtain from the General Counsel an opinion as to whether the closing of a meeting or portions thereof is in accordance with paragraphs (a)(1) through (10) of § 702.53.

(1) For every meeting closed in accordance with paragraphs (a)(1) through (10) of § 702.53, the General Counsel shall publicly certify in writing that, in his or her opinion, the meeting may be closed to the public and shall cite each relevant exemptive provision.

(2) A copy of certification by the General Counsel together with a statement from the presiding officer of the closed meeting setting forth the time and location of the meeting and the persons present, shall be retained by the Commission.

(e) For all meetings closed to the public, the Commission shall maintain a complete verbatim transcript or electronic recording adequate to record fully the proceedings of each meeting or portion of a meeting, which sets forth the time and location of the meeting and the persons present. In the case of a meeting or a portion of a meeting closed to the public pursuant to paragraphs (a)(8), (9)(i)(A), or (10) of § 702.53, the Commission may retain a set of minutes and such minutes shall fully and clearly describe all matters discussed and provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(f) Any person whose interests may be directly affected by a portion of a meeting may request that such portion be closed to the public under § 702.53 or that it be open to the public if the Commission has voted to close the meeting pursuant to § 702.53(a)(5), (6) or (7). The Commission will vote on the request if one Commissioner asks that a vote be taken. Such requests shall be made to the Staff Director within a reasonable amount of time after the meeting or vote in question is publicly announced.