

## **KDLA August 2012 Trustee Tip of the Month Requirements for Conducting Closed Sessions**

A closed session may only legally be called pursuant to one of the exceptions to the Open Meetings Act outlined in KRS61.810. A closed session held for any other reason, or which does not follow the steps outlined in statute, would be a violation of the Open Meetings Act.

These are the exceptions that would most often apply to library boards:

- b. Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency.
- c. Discussions of proposed or pending litigation against or on behalf of a public agency (this requires the probability of litigation, not simply threatened litigation).
- f. Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's or student's right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret.

**Notice:** In order to legally go into closed session notice must be given in regular open meeting of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of [KRS 61.810\(1\)](#) authorizing the closed session ([KRS 61.815\(1\)\(a\)](#)). See, 02-OMD-200, 00-OMD-114, 95-OMD-93, 94-OMD-122, and 94-OMD-22.

**Motion:** A closed session may be held only after a motion is made and carried by a majority vote in open, public session. [KRS 61.815\(1\)\(b\)](#).

Example of a Motion: "I move that the board go into closed session under the provision of KRS 61.810 section 1, subsection C, to discuss pending litigation. The reason is to discuss a settlement offer from opposing counsel."

**Final Action:** No votes may be taken in closed session and no final action may be taken during a closed session. [KRS 61.815\(1\)\(c\)](#). See, 94-OMD-110.

**Matters Discussed:** The only subject which may be discussed in closed session is the one previously announced as the reason for going into closed session. No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session. While informal notes may be taken for clarity when taking action on the matter discussed, minutes should not be taken. [KRS 61.815\(1\)\(d\)](#). See, 03-OMD-170.

**Those Present:** Only board members and those directly involved in the matter being discussed should be present during a closed session. Any audience or uninvolved staff may return to the meeting at the end of the closed session.

**Reconvene open meeting:** It is not required that the board take any action after the end of the closed session, but the board must return to regular session after the closed session, even if it is only to end the regular session. If action is taken after the board reconvenes in open session, it should be noted in the minutes. If no action is taken, a note could be made in the minutes stating "no action to be taken" for future reference.