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For Release: IMMEDIATELY
January 27, 2026

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ABO ISSUES REPORT DETAILING PUBLIC AUTHORITY COMPLIANCE WITH OPEN MEETINGS LAW EXECUTIVE SESSION REQUIREMENTS

**Findings show common errors are responsible for authorities failing to provide the public with
sufficient justification for utilizing executive session**

ABO issues one-page quick reference guide to help improve compliance

The Authorities Budget Office (ABO) released a [report](#) today on the use of executive session by public authority boards. The review's results conclude that authorities are not always in compliance with the strict requirements of the of the Open Meeting Law (OML). The report shows that authority boards must carefully consider whether executive session is legally permissible, and then identify the permissible reason with specificity for the public before entering into executive session.

"The Open Meetings Law is a pillar of government transparency and public authorities must meet a high bar to enter executive session and shield the meeting from the public," said Joshua Norkin, Director of the Authorities Budget Office. "The report we are issuing today shows there are reoccurring lapses in compliance and we are providing additional guidance to the authorities to help."

The ABO identified and reviewed 397 sets of meeting minutes for meetings held between January 2023 and June 2025 that were posted on the respective websites of 16 public authorities. There were 326 meetings that included executive session (82 percent). Oftentimes a board will motion to enter executive session for more than one reason. The meeting minutes reflected that authorities' boards motioned to enter executive session for 549 reasons during the 326 meetings. While a large number of meeting minutes reviewed by the ABO showed compliance with the law, there were numerous instances where public authorities' boards voted to use executive session for matters not permitted under Section 105 of OML.

- Of the 549 reasons supporting a board’s motion, in 240 instances the public authority correctly utilized executive session (44 percent).
- There were 145 instances where 11 of the 16 public authorities’ boards entered executive session for matters that are not permitted under Section 105 of OML. These included unpermitted reasons such as “legal,” “discussing contracts,” “planning sales,” and “marketing strategies.”
- There were 2 instances where boards entered executive session without disclosing any matter, in clear violation of OML.
- The review found authority boards cited 155 reasons to enter executive session that were likely permissible under Section 105 of OML but were not sufficiently described in meeting minutes to meet the specificity standards required by law.
- The remaining 7 reasons provided by boards were exempt pursuant to Section 108(3) of OML since they were confidential under state or federal law. These included board member evaluations and discussion protected by attorney-client privilege.

Section 2829 of the Public Authorities Law (PAL) provides that state and local authorities which are defined under Article 1, Title 1, Section 2 of PAL, and their subsidiaries, are subject to OML. OML provides that, in limited circumstances, boards of directors may vote to discuss specifically permitted matters in “executive session.” OML defines “executive session” as a portion of an open meeting that is not open to the general public. Public authorities are authorized to enter executive session only for the purposes enumerated in Section 105(1)(a) – (h) of OML, provided that no action by formal vote is taken during executive session to appropriate public moneys. All board members and any other persons authorized by the board may attend an executive session.

As a result of this review, ABO [Policy Guidance 26-01: Appropriate Use of Executive Session](#) has been updated to include a [quick reference guide](#) to help authorities comply with the law when using executive session.

A copy of the full report is available at www.abo.ny.gov.

In October, the ABO released a [special report](#) on compliance with website transparency requirements in conjunction with releasing [updated guidance](#). In September, the ABO issued the agency’s [19th Annual Report](#) providing detailed information about public authorities across New York.

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