

New Executive Session Guidance For Public Entities: Be Specific Regarding Personnel-Related Sessions

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Public entities in Ohio are permitted to hold non-public meetings (executive sessions) for several specific reasons. One of the listed categories is for what has been termed "personnel-related matters." *See* Ohio Rev. Code § 121.22(G)(1).

The Ohio Supreme Court, however, has long rejected the idea that a public entity can just claim that it is going into executive session for "personnel" matters. *See State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 59 (2001). Entities had to be more specific.

Ohio Rev. Code § 121.22(G)(1) permits a public entity to go into executive session "[t]o consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official . . . ." After *Cardington*, many public entities simply started citing all these reasons whenever they went into executive session for any personnel-related matter. That may need to change.

The Eleventh District Court of Appeals in Ohio specifically addressed the "laundry list" citation of personnel-related reasons on Sept. 19, 2019. The Court held that public entities are required to state, in their motion to enter executive session, which particular purpose or purposes that the public entity wishes to discuss during executive session. *See Ames v. Portage County Bd. Of County Comm'rs*, 2019-Ohio-3730 (11th Dist. 9/16/2019).

The Court specifically rejected what appears to have become a common practice for some public entities, which is to read the entire list of permissible purposes under Ohio Rev. Code § 121.22(G)(1). *Id.* at ¶ 20.

The Ohio Supreme Court has yet to rule on this narrow and specific issue, but given the reasoning of the Eleventh District, it is

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reasonable to assume that the Ohio Supreme Court would rule similarly.

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