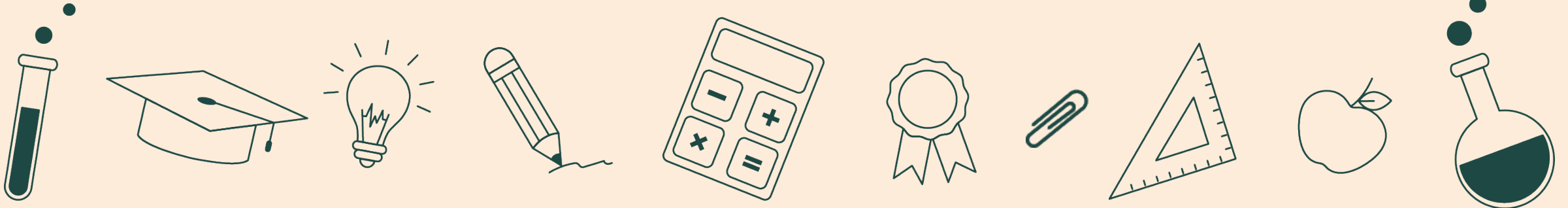




Transparency and Ethics for State Charter Schools

State Charter Schools Commission of Georgia
Cerrone Lockett, General Counsel





Mission

The mission of the State Charter Schools Commission of Georgia is to improve public education by authorizing high quality charter schools that provide students with better educational opportunities than they would otherwise receive in traditional district schools.

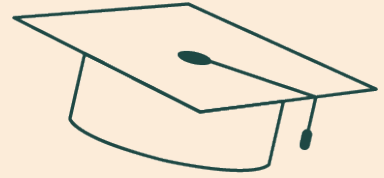


Overview

- Open Meetings
- Budget Approval Hearings
- Open Records
- Fiduciary Duties
- Conflicts of Interest



The Georgia Open Meetings Act



- Every charter contract requires state charter schools to comply with Georgia's open and public meetings requirements.
- Open and public meetings requirements ensure that the public has a right to observe the process by which governmental agencies and entities make decisions.
- Open meetings requirements are construed in favor of citizens seeking access.



What is a meeting?



1. A gathering of a quorum of the members of the governing body (or a committee thereof)
2. at which any official business, policy, or a public matter of the agency is formulated, presented, discussed, or voted upon.



Exceptions

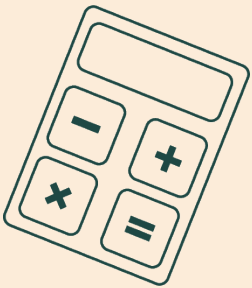


- (i) Inspecting a facility or property of the school
- (ii) Multijurisdictional trainings
- (iii) Meeting with members of the legislative or executive branch at state or federal offices
- (iv) Traveling to a meeting
- (v) Social, ceremonial, civic, or religious events
- (vi) Emails*



Public Access and Recordings

- All meetings must be open to the public.*
- All votes must be taken in public.
- Visual and sound recordings must be permitted.



Notice Requirements



Notice requirements vary depending on the type of meeting. For purposes of providing notice, there are three “types” of meetings.

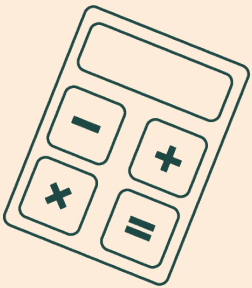
- Regularly Scheduled Meetings
- Special Called Meetings
- Emergency Meetings



Regularly Scheduled Meetings

Notice must be

- be provided one week in advance of the meeting;
- be publicized in a conspicuous place available to the public at the regular meeting location and on the website; and,
- include the time, date, and place of the meeting.



Special Called Meetings



For any meeting other than a regularly scheduled meeting for which notice has already been provided, notice must:

- be given at least 24 hours in advance of the meeting
- to the county legal organ and any media outlet that has requested advance notice of special called meetings.



Emergency Meetings



An emergency meeting is a meeting necessitated by special conditions.

Notice for emergency meetings may be given with less than 24-hours; provided, notice of the meeting and the subjects expected to be considered are provided as reasonable under the circumstances, including notice to the county legal organ.



Meetings by Conference Call



Charter schools with statewide attendance zones can hold meetings via teleconference.



Meetings by Conference Call



If your charter school has a defined attendance zone, it may only meet via teleconference if necessitated by emergency conditions involving public safety or the preservation of property or public services, agencies or committees of the board.

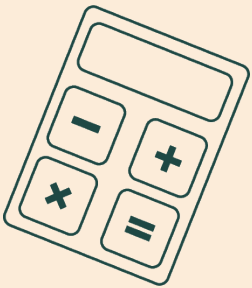
- Individual board members may participate in meetings via teleconference ONLY if their health precludes in-person participation or they are out of the jurisdiction.
- Individual board members may only participate in meetings by teleconference twice per calendar year absent a doctor's note.



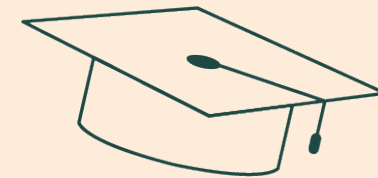
Meeting Agendas

- Agendas must include “all matters expected to come before the governing board or committee at [the] meeting.”
- Agendas must be made available upon request.
- Agendas must be posted at the meeting site as far in advance of the meeting as reasonably possible.

*Agendas can be modified at a meeting when it is necessary to do so.



Meeting Minutes



- Members present
- A description of each motion
- The names of those making and seconding a motion; and
- A record of all votes.
- Minutes must be promptly recorded and made open to the public once approved; and
- A summary of the meeting shall be written and made be available for public inspection within two business days.



Executive Session

Executive session is the portion of a meeting lawfully closed to the public. The open and public meetings statute specifically states what matters are subject to executive session. Any matters not listed in the statute must be discussed during the open portion of the meeting.

Although the statute provides that certain matters may be discussed in executive session, all votes must occur in the public portion of the meeting.



Executive Session

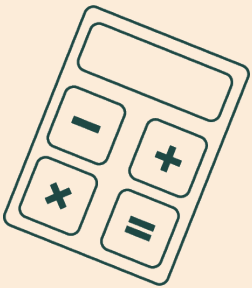
Executive session is permitted to discuss:

- matters protected by the attorney-client privilege;
- confidential tax matters;
- real estate decisions (acquisition, sale, or lease);
- personnel matters; and
- records exempt from disclosure.

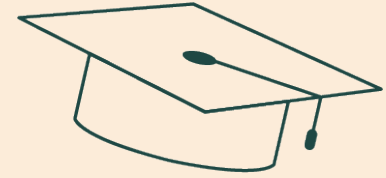


Initiating Executive Session

- State the basis for executive session.
- Majority vote of the quorum.
- Minutes must reflect the result of the vote.
- Take minutes of executive session.*
- Execute an affidavit confirming scope of executive session discussion.



Votes Following Executive Session



- Votes on official actions must occur in public.
- Preliminary votes on real estate matters can occur in executive session, but the vote must be held again in public.
- Votes must make the specific action of the board clear and transparent.
- Votes on personnel matters must provide sufficient detail to allow the public to determine what action was taken.



Public Comment Practices and Procedures

- May not restrict First Amendment speech
- May set time limits
- May establish decorum standards
- May limit responses from the board;
- The board may maintain control of the meeting.



Best Practices for Open Meetings

- Have a policy and procedures for ensuring that all technical requirements are met.
- Understand the intersection between open meetings and other statutory requirements.
- Make duties clear – designate someone to ensure notice is provided, meetings are recorded, affidavits are executed, etc.
- Keep records and know where they are kept.



Annual Budget Hearings

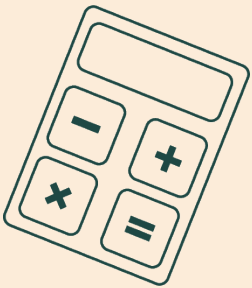
- Hold at least two public meetings to discuss and allow input on the annual operating budget prior to adoption.
- Full board not just a committee.
- Cannot be held within the same seven-day period.
- Must be *advertised* in the legal organ.
- Summary of the budget must be posted on the website. A detailed budget must available upon request.

See O.C.G.A. § 20-2-167.1



Frequently Asked Questions

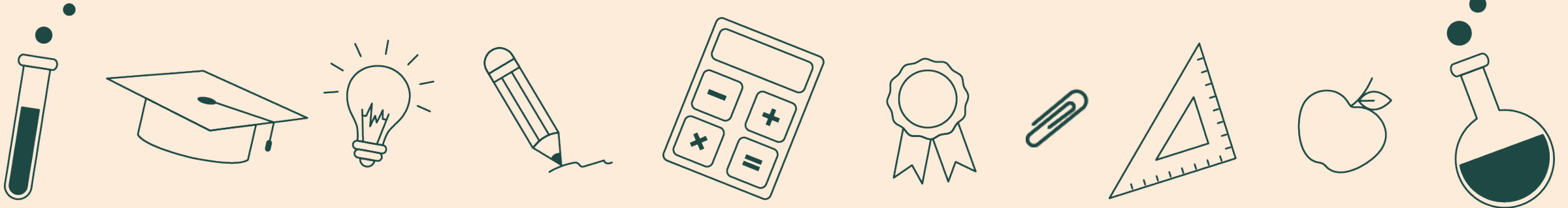
- Can I conduct business via email?
- Are there a required number of board meetings that must occur each year?
- Do my agenda and meeting minutes have to reflect a “public comment” opportunity for annual budget input?





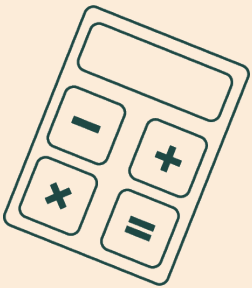
Questions?

State Charter Schools Commission of Georgia



The Georgia Open Records Act

- State Charter Schools are required to comply with the Georgia Open Records Act.
- The Open Records Act ensures that the public has access to all public records for personal inspection and copying, except those required to be kept confidential.
- Public records must be made available for public inspection without delay.



“Documents”

A public record is any tangible or intangible document created, received, or maintained by the school or any entity on behalf of the school.

All documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, data, data fields, or similar material prepared and maintained or received by the charter school or by a private person or entity in the performance of a service or function for or on behalf of the charter school or when such documents have been transferred to a private person or entity by the charter school for storage or future governmental use.

All public records, except for those specifically exempt from disclosure, must be available for public review and copying.

O.C.G.A. § 50-18-70 et. seq.



Requests



- Oral or in writing
- Any request, other than a request for student educational records, must be treated as an open records request.
- Designated Open Records Officer.



Responses

- Three business days.
- If records cannot be provided within three business days, provide an estimate as to when they will be available, the costs associated with the response, and whether any information will be withheld.
- If records or information will be withheld, the response must state the specific statutory authority for exempting the record.



Student Educational Records

- Personally-identifiable student information in educational records is exempt.
- Certain individuals may request student records pursuant to the Family Educational Rights and Privacy Act (FERPA).
- If documents requested pursuant to the open records act can be redacted to exclude personally-identifiable student information, the documents must be provided.



Fees for Producing Records

- For each physical page produced, you may charge \$.10.
- You may charge the hourly rate of the LOWEST paid capable employee for searching and producing responsive records, excluding the first 15 minutes.
- You **MAY NOT** charge attorney's fees for searching, producing, or responding to open records requests.



Exemptions

- Personally identifiable information in educational records.
- Secure test materials.
- Personal contact information for staff.
- Health insurance and financial information (not salaries) for staff.
- TKES/LKES evaluations.



Non-Exempt Records

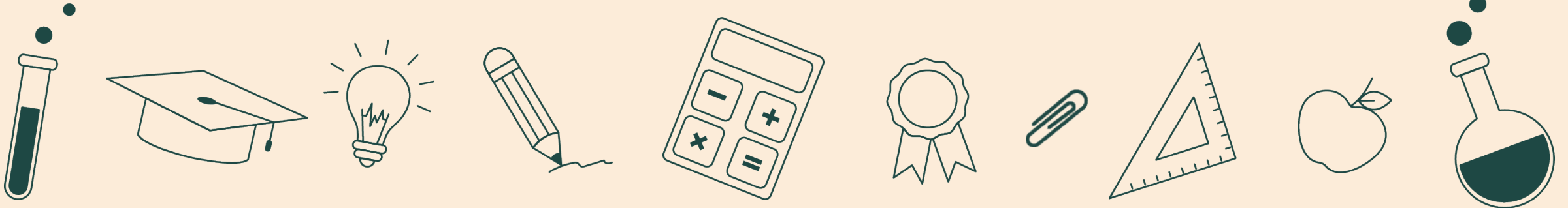
- Records involving students not related to education – e.g., security video maintained by a law enforcement unit.
- Designated Directory Information under FERPA.
- Employee discipline actions.
- Employee salaries.
- Employee evaluations that are not TKES/LKES.





Questions?

State Charter Schools Commission of Georgia



Transparency and Ethics



Records Transparency

- Governing Board membership;
- Governing Board meeting calendar;
- Meeting agendas for upcoming Governing Board meetings;
- Meeting minutes for past Governing Board meetings unless the Georgia Open Meetings Act limits their publication;
- Procedure for contacting the school's Governing Board;
- Procedure for contacting the school's most senior school administrator;
- Any admissions application utilized by the school;
- Notification of enrollment and admission procedures required by SCSC Rule 691-2-.05, including the date, time, and location of any upcoming enrollment lottery;
- Annual operating budget or summary thereof as required by O.C.G.A. § 20-2-167.1; and
- The charter school's Charter Contract.

See SCSC Rule 691-2-.03

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Fiduciary Duty



A state charter school governing board has a fiduciary duty to the school – its students, staff, and community. Each member of a state charter school governing board must independently exercise his or her judgment with **care, loyalty, and obedience**.



Best Practices: Fiduciary Duty



- Implement an ongoing recruitment program to develop and vet prospective governing board candidates.
- Develop, update, and implement conflict of interest policies.
- Communicate with appropriate school staff.
- Consult experts to increase competence.
- Regularly assess the board's effectiveness in adhering to its fiduciary duties.



Conflicts of Interest

Governing board members MUST NOT:

- Act in an official capacity in any matter where they have a material financial interest reasonably expected to impair objectivity;
- Solicit, accept, or knowingly allow a board member to accept a thing of value based upon an understanding that the thing of value was given or offered for the purpose of influencing that board member in the discharge of their duties.



Conflicts of Interest

A governing board member MUST NOT:

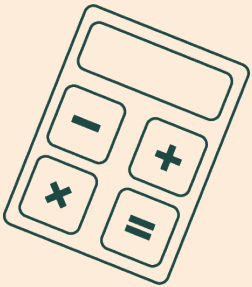
- Use their position (or information acquired exclusively by reason of board membership, and not publicly known) for the purpose of securing financial gain.
- Be an officer or serve on the board of directors of any organization that sells goods or services to that state charter school.

O.C.G.A. § 20-2-2084(e)(2)



Employee Conflicts of Interest

Charter school employees must not serve on the board of directors of an organization that sells goods or services to the state charter school.



Review

Board member standards:

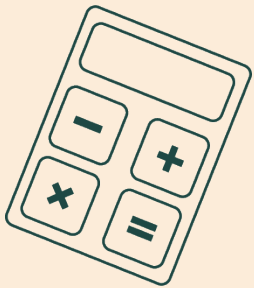
- apply to board members, immediate family members, and business organizations with whom board members have an interest.
- apply to discharging board member duties.

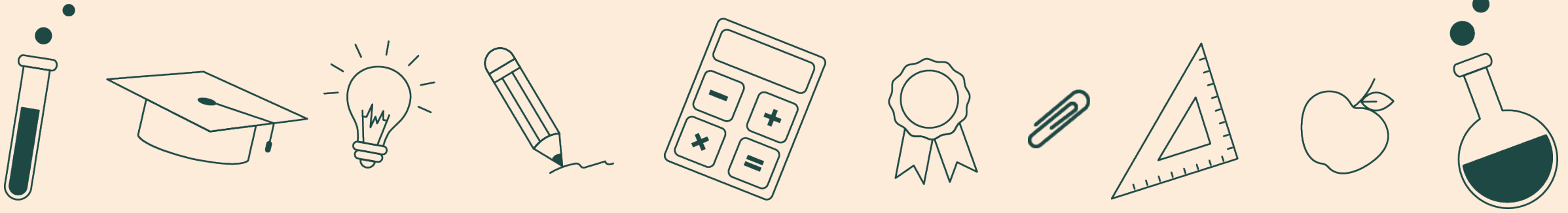
Neither board members nor employees can be officers or serve on the board of directors of any organization that sells goods or services to their state charter school.



Best Practices

- Be available to stakeholders (but remember to respect your role).
- Set standards and expectations for staff and board communications.
- Establish and follow a tiered grievance policy.
- Ensure board actions are well-communicated to stakeholders.
- Ensure board actions are consistent with the school's mission and vision and part of a long-term strategic plan.





Contact Us

Website: scsc.georgia.gov

Twitter: @SCSCGa

Address: 504 Twin Towers West,
205 Jesse Hill Jr. Dr., SE,
Atlanta, GA 30334

Phone: (404) 656-2837