

(9) Specifically concern the Commission's issuance of subpoena or participation in a civil action or proceeding; or

(10) Specifically concern the initiation, conduct, or disposition of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554, or of any case involving a determination on the record after opportunity for a hearing. Included under the above terms are:

(i) Record review hearings following opportunity for an in-person hearing pursuant to the procedures of 28 CFR 4.1 through 4.17 and 28 CFR 4a.1 through 4a.17<sup>1</sup> (governing applications for certificates of exemption under the Labor-Management Reporting and Disclosure Act of 1959 and the Employee Retirement Income Security Act of 1974), and

(ii) The initiation, conduct, or disposition by the Commission of any matter pursuant to the procedures of 28 CFR 2.1 through 2.58 (parole, release, supervision, and recommitment of prisoners, youth offenders, and juvenile delinquents).

(b) *Public interest provision.* Notwithstanding the exemptions at paragraphs (a)(1) through (a)(10) of this section, the Commission may conduct a meeting or portion of a meeting in public when the Commission determines, in its discretion, that the public interest in an open meeting clearly outweighs the need for confidentiality.

(c) *Nonpublic matter in announcements.* The Commission may delete from any announcement or notice required in these regulations information the disclosure of which would be likely to have any of the consequences described in paragraphs (a)(1) through (a)(10) of this section, including the name of any individual considered by the Commission in any case of formal or informal adjudication.

(d) *Voting and certification.* (1) A separate recorded vote of the Commission shall be taken with respect to each meeting or portion thereof which is proposed to be closed, and with respect to any information which is proposed to be withheld pursuant to this section.

Voting by proxy shall not be permitted. In the alternative, the Commission may, by a single majority vote, close to public observation a series of meetings, or portion(s) thereof or withhold information concerning such series of meetings, provided that:

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

(ii) Each meeting is scheduled to be held no more than thirty days after the initial meeting in the series.

(2) Upon the request of any Commissioner, the Commission shall make a determination as to closure pursuant to this subsection if any person whose interests may be directly affected by a portion of a meeting requests the Commission to close such portion or portions to the public observation for any of the grounds specified in paragraph (a) (5), (6) or (7) of this section.

(3) The determination to close any meeting to public observation pursuant to this section shall be made at least one week prior to the meeting or the first of a series of meetings as the case may be. If a majority of the Commissioners determines by recorded vote that agency business requires the meeting to take place at any earlier date, the closure determination and announcement thereof shall be made at the earliest practicable time. Within one day of any vote taken on whether to close a meeting under this section, the Commission shall make available to the public a written record reflecting the vote of each Commissioner on the question, including a full written explanation of its action in closing the meeting, portion(s) thereof, or series of meetings, together with a list of all persons expected to attend the meeting(s) or portion(s) thereof and their affiliation, subject to the provisions of paragraph (c) of this section.

(4) For every meeting or series of meetings closed pursuant to this section, the General Counsel of the Parole Commission shall publicly certify that, in Counsel's opinion, the meeting may be closed to the public and shall state each relevant exemptive provision.

#### § 16.204 Public notice.

(a) *Requirements.* Every open meeting and meeting closed pursuant to § 16.203

<sup>1</sup>Part 4a was removed at 44 FR 6890, Feb. 2, 1979.

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shall be preceded by a public announcement posted before the main entrance to the Chairman's Office at the Commission's headquarters, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815-7286, and, in the case of a meeting held elsewhere, in a prominent place at the location in which the meeting will be held. Such announcement shall be transmitted to the FEDERAL REGISTER for publication and, in addition, may be issued through the Department of Justice, Office of Public Affairs, as a press release, or by such other means as the Commission shall deem reasonable and appropriate. The announcement shall furnish:

- (1) A brief description of the subject matter to be discussed;
- (2) The date, place, and approximate time of the meeting;
- (3) Whether the meeting will be open or closed to public observation; and
- (4) The name and telephone number of the official designated to respond to requests for information concerning the meeting. See §16.205(d) for the notice requirement applicable to meetings closed pursuant to that section.

(b) *Time of notice.* The announcement required by this section shall be released to the public at least one week prior to the meeting announced therein except where a majority of the members of the Commission determines by a recorded vote that Commission business requires earlier consideration. In the event of such a determination, the announcement shall be made at the earliest practicable time.

(c) *Amendments to notice.* The time or place of a meeting may be changed following the announcement only if the Commission publicly announces such change at the earliest practicable time. The subject matter of a meeting, or determination of the Commission to open or close a meeting, or portion of a meeting, to the public may be changed following the announcement only if:

- (1) A majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and
- (2) The Commission publicly announces such change and the vote of each member upon such change at the

earliest practicable time: *Provided*, That individual items which have been announced for Commission consideration at a closed meeting may be deleted without notice.

[42 FR 14713, Mar. 16, 1977 as amended by Order No. 960-81, 46 FR 52357, Oct. 27, 1981]

**§ 16.205 Closed meetings—Informal procedures.**

(a) *Finding.* Based upon a review of the meetings of the U.S. Parole Commission since the effective date of the Parole Commission and Reorganization Act (May 14, 1976), the regulations issued pursuant thereto (28 CFR part 2) the experience of the U.S. Board of Parole, and the regulations pertaining to the Commission's authority under 29 U.S.C. 504 and 29 U.S.C. 1111 (28 CFR parts 4 and 4a), the Commission finds that the majority of its meetings may properly be closed to the public pursuant to 5 U.S.C. 552 (d)(4) and (c)(10). The major part of normal Commission business lies in the adjudication of individual parole cases, all of which proceedings commence with an initial parole or revocation hearing and are determined on the record thereof.

Original jurisdiction cases are decided at bi-monthly meetings of the National Commissioners (28 CFR 2.17) and by the entire Commission in conjunction with each business meeting of the Commission (held at least quarterly) (28 CFR 2.27).

The National Appeals Board normally decides cases by sequential vote on a daily basis, but may meet from time to time for joint deliberations. In the period from October, 1975 through September, 1976, the National Appeals Board made 2,072 Appellate decisions.

Finally, over the last two years the Commission determined eleven cases under the Labor and Pension Acts, which are proceedings pursuant to 5 U.S.C. 554. The only meetings of the Commission not of an adjudicative nature involving the most sensitive inquiry into the personal background and behavior of the individual concerned, or involving sensitive financial information concerning the parties before the Commission, are the normal business meetings of the Commission, which are held at least quarterly.