

**Basis for Closing Portions of the
February 23-24, 2009 National Science Board Meeting**

On December 10, 2008, the National Science Board voted to close certain portions of its February 23-24, 2009 meeting. Board Members Abbott, Barish, Beering, Bement, Benbow, Córdova, Droegemeier, Galloway, Griffiths, Gulari, Lanzerotti, Leshner, Peterson, Randall, Reilly, Souvaine, Strauss, Taylor, and Thompson participated in the vote and no Member objected to closing the meeting.

The Board Members, National Science Board Office staff, and selected NSF staff will attend the closed portions of the meeting. The justification for closing particular portions of the meeting is provided in the attached certification.

MEMORANDUM TO MEMBERS AND CONSULTANTS OF THE NATIONAL SCIENCE BOARD

SUBJECT: Closed Session Agenda Items for February 23-24, 2009 Meeting

The Government in the Sunshine Act requires formal action on closing portions of each Board meeting. The following are the closed session agenda items anticipated for the February 23-24, 2009 meeting.

1. Staff appointments
2. Candidates for honorary or achievement awards
3. Future budgets
4. Grants and contracts
5. Specific Office of Inspector General investigations and enforcement actions
6. NSF participation in a civil or administrative action, proceeding, or arbitration

A proposed resolution and the General Counsel's certification for closing these portions of the meetings are attached for your consideration.

[signed]
Craig R. Robinson
Acting Executive Officer

Attachments

PROPOSED
RESOLUTION
TO CLOSE PORTIONS OF THE
FEBRUARY 23-24, 2009
NATIONAL SCIENCE BOARD MEETING

RESOLVED: That the following portions of the meeting of the National Science Board (NSB) scheduled for February 23-24, 2009 shall be closed to the public.

1. Those portions having to do with discussions regarding nominees for appointments as National Science Board members and National Science Foundation (NSF) staff appointments, or with specific staffing or personnel issues involving identifiable individuals. An open meeting on these subjects would be likely to constitute a clearly unwarranted invasion of personal privacy.
2. Those portions having to do with budgets for a particular fiscal year not yet submitted by the President to the Congress.
3. Those portions having to do with proposals and awards for specific grants, contracts, or other arrangements. An open meeting on those portions would be likely to disclose personal information and constitute a clearly unwarranted invasion of privacy. It would also be likely to disclose research plans and other related information that are trade secrets, and commercial or financial information obtained from a person that is privileged or confidential. An open meeting would also prematurely disclose the position of the NSF on the proposals in question before final negotiations and any determination by the Director to make the awards and so would be likely to frustrate significantly the implementation of the proposed Foundation action.
4. Those portions having to do with specific Office of the Inspector General investigations and enforcement actions, or agency audit guidelines.
5. Those portions having to do with NSF participation in a civil or administrative action, proceeding, or arbitration.

The Board finds that any public interest in an open discussion of these items is outweighed by protection of the interests asserted for closing the items.

C E R T I F I C A T E

It is my opinion that portions of the meeting of the National Science Board (NSB) or its subdivisions scheduled for February 23-24, 2009 having to do with nominees for appointments as NSB members and National Science Foundation (NSF) staff, or with specific staffing or personnel issues or actions, may properly be closed to the public under 5 U.S.C. § 552b(c) (2) and (6); those portions having to do with proposed budgets for a particular fiscal year may properly be closed to the public under 5 U.S.C. § 552b(c) (3) and 42 U.S.C. 1863(k); those portions having to do with proposals and awards for specific grants, contracts, or other arrangements may properly be closed to the public under 5 U.S.C. § 552b(c) (4), (6), and (9) (B); those portions disclosure of which would risk the circumvention of a statute or agency regulation under 5 U.S.C. § 552b(c) (2); and those portions having to do with specific Office of the Inspector General investigations and enforcement actions may properly be closed to the public under 5 U.S.C. § 552b(c) (5), (7) and (10).

[signed]

Lawrence Rudolph
General Counsel
National Science Foundation