

foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Review Board of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing; or

(i) Disclose other information for which the Sunshine Act provides an exemption to the open meeting requirements of the Act.

§ 1405.5 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.

(a) A majority of all Members may vote to close a meeting or withhold information pertaining to that meeting. A separate vote shall be taken with respect to each action under § 1405.4. A majority of the Review Board may act by taking a single vote with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. Each Member's vote under the paragraph shall be recorded and no proxies shall be permitted.

(b) Any person whose interests may be directly affected if a portion of a meeting is open may request the Review Board to close the portion of the meeting on the grounds referred to in § 1405.4(e), (f), or (g). Requests, with reasons in support thereof, should be submitted to the Office of the General Counsel, Assassination Records Review Board, 600 E Street, NW., 2nd Floor, Washington, DC 20530. On the motion of any Member, the Review Board shall determine by recorded vote whether to grant the request.

(c) Within one working day of any vote taken pursuant to this section, the Review Board shall make publicly available a written copy of such vote reflecting the vote of each Member on the question. If a portion of a meeting is to be closed to the public, the Review Board shall make available a full written explanation of its action closing the meeting (or portion thereof) and a list of all persons expected to attend the meeting and their affiliation.

(d) For each closed meeting, the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification shall be available for public inspection.

(e) For each closed meeting, the Presiding Officer shall issue a statement setting forth the time, place, and persons present. A copy of such statement shall be available for public inspection.

(f) For each closed meeting, with the exception of a meeting closed pursuant to 1405.4(h), the Review Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting. For meetings or portions thereof that are closed pursuant to § 1405.4(h), the Review Board may maintain a set of minutes in lieu of such transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. The records of closed meetings, in addition to all other records of the Review Board, shall be included as permanent records in the JFK Collection at the National Archives as provided by the JFK Act.

§ 1405.6 Procedures for public announcement of meetings.

(a) For each meeting, the Review Board shall make public announcement, at least one week before the meeting, of the:

- (1) Time of the meeting;
- (2) Place of the meeting;
- (3) Subject matter of the meeting;
- (4) Whether the meeting is to be open or closed; and
- (5) The name and business telephone number of the official designated by the Review Board to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if:

(1) A majority of all Members determines by recorded vote that Review Board business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time.

§ 1405.7 Changes affecting a meeting following the public announcement of a meeting.

(a) After there has been a public announcement of a meeting, the time or place of such meeting may be changed only if the Review Board publicly announces such change at the earliest practicable time. Members need not approve such change by recorded vote.

(b) After there has been a public announcement of a meeting, the subject

matter of such meeting, or the determination of the Review Board to open or to close a meeting or a portion thereof to the public may be changed only when:

(1) A majority of all Members determines, by recorded vote, that Review Board business so requires and that no earlier announcement of the change was possible; and

(2) The Review Board publicly announces such change and the vote of each Member thereof at the earliest practicable time.

(c) The deletion of any subject matter announced for a meeting is not a change requiring the approval of the Review Board under paragraph (b) of this section.

§ 1405.8 Availability and retention of transcripts, recordings, and minutes, and applicable fees.

In accordance with the provisions of the JFK Act, the Review Board shall retain the transcript, electronic recording, or minutes of the discussion of any item on the agenda or of any testimony received at a closed meeting for inclusion as a permanent record in the JFK Collection at the National Archives. The public shall have access to such records consistent with the terms of the JFK Act. Copies of any nonexempt transcript or minutes, or transaction of such recordings disclosing the identity of each speaker, shall be furnished to any person at the actual cost of transcription or duplication unless otherwise provided by the terms of the JFK Act. If at some later time the Review Board determines that there is no further justification for withholding a portion of a transcript, electronic recording, or minutes or other item of information from the public which had been previously withheld, such portion or information shall be made publicly available.

§ 1405.9 Severability.

If any provision of this part or the application of such provision to any person or circumstance, is held invalid, the remainder of this part of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Dated: June 20, 1995.

David G. Marwell,
Executive Director.

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