Novus SMART Academy (K-8)
Open Meetings Law Policy (T.C.A. § 8-44-101 et seq.)

1. **Purpose and Policy.** Tennessee's Open Meetings Law, commonly called the "Sunshine Law," reflects the State's policy that the formation of public policy and decisions is public business and shall not be conducted in secret. [1] Novus SMART Academy (K-8) (the "School") is a Tennessee nonprofit public charter school, and the meetings of its governing body are expressly deemed public business that must be held in compliance with the Open Meetings Law. [2] The purpose of this policy is to ensure that the School's Board of Directors (the "Board") and its committees conduct public business openly, with advance public notice, open deliberation, meaningful public access, and complete and accurate records.

2. **Scope and Applicability.** This policy applies to the Board and to every committee and task force of the Board when that body convenes to make a decision, or to deliberate toward a decision, on any matter of School business. [3] As used in this policy, a "meeting" is the convening of the Board, or of a committee, to make or deliberate toward such a decision; it does not include an on-site inspection of a project or program. [3] Open-meetings compliance is a core charter obligation that neither the School's authorizer nor the Commissioner of Education may waive. [4]

3. **Open Meetings Requirement.** All meetings of the Board and its committees are public meetings, open to the public at all times, except as otherwise provided by the Constitution of Tennessee. [5] The public may attend, observe, and- as provided Section 9- offer input, consistent with the School's Bylaws.

4. **Advance Public Notice.** The School shall give adequate public notice of every meeting, whether a regularly scheduled meeting or a special meeting called between regular meetings. [6] Public notice shall state the date, time, and location of the meeting and shall include an agenda or a statement specifying the nature of the business to be conducted. Consistent with the Bylaws, notice of regular meetings is given to each Director at least thirty (30) days in advance, and notice of special meetings is given at least five (5) calendar days in advance. All information providing notice of the School's public meetings shall be kept current on the School's website, as required for public charter schools. [7] These notice requirements are in addition to, and not a substitute for, any other notice required by law. [6]

5. **Agendas and Meeting Materials.** An agenda of the items to be discussed, together with available supporting materials, shall be circulated to the Directors in advance of each meeting and made available to the public consistent with the notice posted for the meeting.

6. **Minutes and Recordkeeping.** The Board Secretary shall ensure that minutes of each Board and committee meeting are promptly and fully recorded and kept with the records of the School. The minutes shall be open to public inspection and shall include, at a minimum, a record of the persons present, all motions, proposals, and resolutions offered, the results of any votes taken, and a record of each member's individual vote in the event of a roll call. [8]

7. **Voting; No Secret Ballots.** All votes of the Board and its committees shall be taken by public vote, public ballot, or public roll call. No secret votes, secret ballots, or secret roll calls are permitted. [9] A "public vote" is one in which the members voting "aye" vocally express their will in unison and the members voting "nay" then vocally express their will in unison. [9] No Director may vote by proxy, and no absent Director may designate an alternate to act in the Director's place. [10]

8. **No Deliberation Outside a Public Meeting.** Directors shall not use chance meetings, informal gatherings, or any form of electronic communication- including email, text messaging, or private messaging- to decide or deliberate toward a decision on public business in circumvention of the spirit or requirements of the Open Meetings Law. [11] Serial or sequential private communications among Directors that together amount to deliberation toward a decision are prohibited.

9. **Public Participation.** Members of the public shall have an opportunity for input at meetings of the Board, consistent with the Bylaws and any reasonable rules the Board adopts for the orderly conduct of public comment.

10. **Electronic Participation in Meetings.** Because the School is a public charter school, its governing body may conduct a scheduled board meeting by electronic means only in the same manner that a Tennessee local board of education may do so. [12] Accordingly:
    (a) A meeting may be conducted with electronic participation only if a quorum of Directors is physically present at the meeting location, except that a meeting may proceed without a physically present quorum when inclement weather or a natural disaster makes the physical presence of a quorum impractical or unsafe- and no more than three (3) times per year. [13]
    (b) An individual Director may participate electronically only if the Director can be visually identified by the Board Chair and the Director's reason falls within one of the grounds allowed by law: out of the county for work (no more than twice per year, with at least five (5) days' advance notice); illness or convalescence on the advice of a healthcare professional (no more than three times per year); inclement weather or natural disaster when School operations are closed (no more than three times per year); a family emergency (no more than twice per year); or absence from the county due to military service. [14]
    (c) A Director who does not reside in Tennessee may participate by electronic means in all scheduled board meetings. [15]
    (d) When any Director participates electronically, the School shall also observe the general open-meetings safeguards for electronic participation: the public must be able to view and listen in real time and to offer any public comment normally allowed; the notice and agenda must state that electronic participation will occur and specify the physical location for public attendance and the information needed to access the meeting; a recording must be posted on the School's website no later than two (2) business days after the meeting and retained as required by law; all participants must be able to hear and speak to one another simultaneously and remain identifiable by name throughout; and all votes must be taken by roll call. [16]
    (e) A Director participating by authorized electronic means is considered present for purposes of establishing a quorum and voting. [17] The Board shall meet with a quorum physically present at least once each calendar year. [18]

11. **Consequences of Noncompliance.** Any action taken at a meeting held in violation of the Open Meetings Law is void and of no effect, except for an otherwise lawful commitment affecting the public debt. [19] Tennessee courts may enjoin violations on the application of any citizen, retain jurisdiction over the Board for one (1) year, and- where a body knowingly and willfully refused to comply- award the reasonable costs and attorneys' fees incurred in enforcing the law. [20]

12. **12. Responsibility for Compliance.** The Board Chair presides over Board meetings and is responsible, with the Board Secretary, for conducting meetings in accordance with this policy. The Board Secretary serves as the Board's protocol officer and is responsible for ensuring that all notices are duly given, that meeting information is kept current on the School's website, and that minutes are recorded, posted, and preserved as required by law and the Bylaws. In the event of any conflict between this policy and the Open Meetings Law, the Open Meetings Law governs.

Statutory Authority (Endnotes)

[1] Tenn. Code Ann. § 8-44-101(a).
[2] Tenn. Code Ann. § 49-13-111(h); see also Tenn. Code Ann. § 49-13-104(10) (defining the governing body of a public charter school).
[3] Tenn. Code Ann. § 8-44-102(b)(2) (defining "meeting").
[4] Tenn. Code Ann. § 49-13-111(p)(11).
[5] Tenn. Code Ann. § 8-44-102(a).
[6] Tenn. Code Ann. § 8-44-103(a)–(c).
[7] Tenn. Code Ann. § 49-13-111(h).
[8] Tenn. Code Ann. § 8-44-104(a).
[9] Tenn. Code Ann. § 8-44-104(b).
[10] Tenn. Code Ann. § 8-44-104(b); Novus SMART Academy (K-8) Bylaws § 4.9.
[11] Tenn. Code Ann. § 8-44-102(c).
[12] Tenn. Code Ann. § 49-13-111(h) (directing charter governing bodies to the electronic-meeting procedures of Tenn. Code Ann. § 49-2-203(c)).
[13] Tenn. Code Ann. § 49-2-203(c)(2).
[14] Tenn. Code Ann. § 49-2-203(c)(3)–(4).
[15] Tenn. Code Ann. § 49-13-111(h).
[16] Tenn. Code Ann. § 8-44-108(c).
[17] Tenn. Code Ann. § 8-44-108(g).
[18] Tenn. Code Ann. § 8-44-108(d); see Novus SMART Academy (K-8) Bylaws § 4.5.
[19] Tenn. Code Ann. § 8-44-105.
[20] Tenn. Code Ann. § 8-44-106.