



Public Records & Public Meetings





Public Records Law



- Goals of training
- Requirements
- Compliance
- What happens when request is made



Public Records Law



- Applies to every state officer, agency - including task force
 - Applies to local governments too
- **EXCEPTION:** Does not apply to legislature, members, committees or staff during session
- Reason: Because Constitution exempts legislature from all civil process during session



Public Records Law



- Sometimes best to disclose public records even when law does not require disclosure



Public Records Law



- What is a public record?
 - Any writing that reflects conduct of the public's business
 - Writing created, used or retained by the public body
 - Law has bias in favor of disclosure
 - Includes electronic records, photos, audio or video recordings



Public Records Law



Important!!!

- Creating or storing a record on your personal device DOES NOT turn a public record into a private record



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Records Retention



- You must keep only records that you:
 - Create
 - Use
 - Retain
- Everything else =





Records Retention



- Email Management Best Practices:
 - Do not allow email to accumulate in inboxes
 - Decide promptly what received email you want to retain and move to one or more dedicated folders (strongly suggest separate folder for Task Force work)



Records Retention



- Retention – How long do you keep public records?

TASK FORCE

- Generally, two years
- Text messages, voicemail and other ephemeral records not retained
- SEI documents: Five years
- Honoraria statements: Five years



Records Retention



- Special rule for certain travel records
- Records of expenses paid by others for you to attend a convention, fact-finding mission or trip, keep for:
 - Senate: Five years
 - House: Five years

Remember

**This rule applies only if someone else pays,
not the legislature**



Records Retention



Important!!!

- Once a records request is made, you must retain all records responsive to the request until the request has been responded to
- This includes public records you would not otherwise be required to retain



Exemptions



- Just because a record is a public record does not mean you must disclose it
- There are more than 100 exemptions in the law that allow you to keep records confidential
- There are some exemptions that require you to keep records confidential. Almost no exemption requiring confidentiality applies to records kept by legislators.



Exemptions



Conditional

- Government interest in confidentiality balanced against public interest in disclosure
- Law favors disclosure

Unconditional

- No balancing of interests
- If record fits exemption, record need not be disclosed



Exemptions



- Common exemptions:
 - Internal Advisory Communications
 - Communications or work received from Legislative Counsel
 - Public employee address, birth date, social security number and telephone number
 - Certain records pertaining to investigations
 - Personal privacy
 - Trade secrets



Exemptions



- E-mail addresses in possession of legislative office
- Exception: Does not apply to e-mail addresses assigned by public body to public officials and employees



Public Records



Record Request Procedures



Records Requests



- Any member of the public may make request
 - Cannot ask about motive UNLESS requester asks that fees be waived - purpose can only be used for waiver consideration
 - Public bodies may not make public records requests of other public bodies
 - EXCEPTION: Legislators
- Must be in writing



Records Requests



- Best practice: When you receive request, **IMMEDIATELY** contact LC for assistance (leg.recreq@oregonlegislature.gov)
- Request must be acknowledged within 5 business days
- LC attorney will work with you and IS to gather records
- Written estimate of cost given to requester
- Requester must agree to pay cost



Records Requests



- Once records are gathered, LC attorney will review with you and discuss with you how to proceed
- Records will not be sent to a requester without an opportunity for you to review



Records Requests



- A response must be given to a requester within 15 business days of request being made
- Response must either be records, exemption claimed or reasonable estimate of when records will be provided
- Failure to meet timeline is treated like a denial of a request
- Circumstances when timeline suspended



Remedies



- Public Records Advocate
- Department of Justice and Courts
- Government Ethics Commission (Meetings)



Public Meetings



- Applies to any “governing body” of a public body
 - This includes task force members
- “Meeting” is the convening of any governing body for which a quorum is required to make a decision or deliberate toward a decision



Public Meetings



- Must be open to the public
 - Unless executive session or exempt – both rare
- Must provide notice
 - Date, time, place, name and telephone number of contact person to request hearing interpreter services, list of principal subjects to discuss
- Must provide written minutes or a recording
 - Members present, motions, proposals, orders, ordinances and measures proposed and disposition, results of each member's vote, substance of discussion, reference to any document discussed



Open Meetings



Trap for the Unwary!!!



- Quorum of a committee
- Deliberates toward a decision
- Be wary of serial communications



Questions ???



If you have questions
Please contact:
The Office of Legislative
Counsel



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