



# Public Records & Open Meetings

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# 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)
  - Separate folders





# 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
- Special rules for travel documents when someone other than Legislature pays



# 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

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- 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

# Records Requests Procedures



- Any member of the public may make request
  - Must be in writing
- Best practice: When you receive request, **IMMEDIATELY** contact LC for assistance ([leg.recreq@oregonlegislature.gov](mailto:leg.recreq@oregonlegislature.gov)); Request must be acknowledged within 5 business days
- LC attorney will work with you and IS to gather records, asses costs
- 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
- Timelines



# Remedies



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





# Open Meetings

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- 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



# Open Meetings



- Must be open to the public
  - Open does not include allowing public to provide comment
- Must provide notice
  - Date, time, place, name and telephone number of contact person to request hearing interpreter services, list of principal subjects to discuss
  - Intended to provide actual notice
- 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 ???

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



# Public Records & Open Meetings