



**Missouri's Sunshine Law:
Compliance and Avoidance of Personal Liability**

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Your Presenter



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What is the “Sunshine Law?”

The Missouri Open Meetings and Records Act requires most meetings, records, votes, actions and deliberations to be public



Missouri
Sunshine Law
Open Meetings and Records Law

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Are You Covered? - Yes

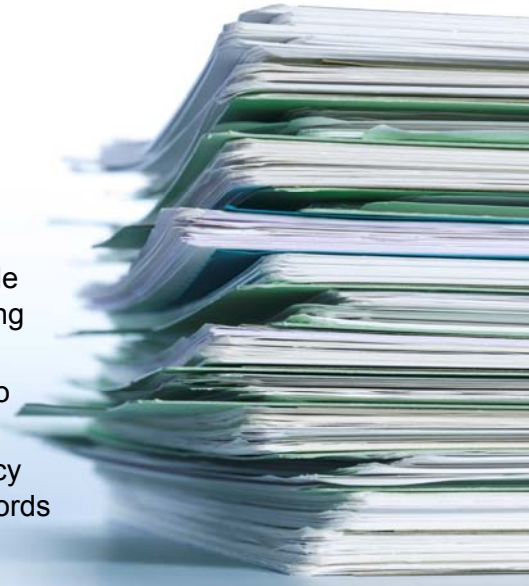
“Public
Governmental
Body”

Includes any
administrative or
governmental entity
created by statute

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Public Records

- Every record presumed open unless specifically closed
- If open, must be available for inspection and copying
- Must publicly identify a custodian of records who receives requests
- Must have a written policy regarding release of records



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Fees for Record Searches/Production

- 10¢ per page
- Hourly fee for copying equal to average clerical rate
- Actual costs of searching



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Definition of a “Public Record”

- Everything retained
- If any employee, agent under control or board member retains it, the document is a “Public Record”
- Hard copy and electronic records, including e-mail

NOTE: The Sunshine Law does **not** define what documents must be retained

- Other statutes and **the record retention policy of the organization** address that

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Public Meetings

Public Meetings

Presumption that all meetings are open

Public business discussed, decided or policy formulated

Includes face-to-face, conference call, video, internet chat, message board

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What is Public?

- “Public Business” includes all matters which relate in any way to the body’s function or business
- Any vote is public, no matter how conducted

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Quorum

- Do you have to have a quorum for it to be a public meeting?
 - Case law is mixed, but no safe harbor if no quorum



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What is a “Public Meeting”?

- Weekly meeting to discuss legislation **IS** a public meeting
- Authority mixed on whether individual meetings with board members are public meetings
 - two Attorney General opinions reach different results

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What is *not* a “Public Meeting”?



- Informal gathering for ministerial or social purposes
- No discussion of public business
- *Kansas City Star v. Fulson*: Workshop regarding personal relations of board members not a public meeting

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Procedural Requirements of Meetings

Time and place:

Reasonably accessible

Anticipate attendance

Disabled access

If not accessible, must say why in minutes

Time reasonably convenient

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Notice of Meetings

- Time, date, place
- Tentative agenda posted
- ALL meetings - even those that will be closed



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Special Rules for Electronic Meetings



- Identify “mode”
- Location where public can observe
- How public can obtain access
- Other requirements also apply

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Mechanics of Giving Notice

Post in prominent place

Give to any media member who has requested notice

24-hour minimum unless good cause, which must be stated in minutes

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Votes

- All votes in a public meeting must be recorded
- Roll call not required, but if taken, each vote must be recorded and be in minutes



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Minutes

- Must be taken for open and closed meetings
- Must include date, time, place, members present and absent, and a record of votes



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Closed Meetings, Records and Votes

- Sunshine Law permits closing of certain meetings records and votes (over 20 exceptions)
- All ties/questions resolved against closure

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Exceptions

Legal actions,
litigation,
privileged advice

Real estate
transactions
where price might
be revealed

Employee
discipline

Health
proceedings

Testing materials
before test is
given

Preparation For
Negotiations With
Welfare Groups

Software codes

Preliminary specs
for bidding

Personnel records

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Exceptions

Records "Protected From Disclosure By Law" (Trade Secrets)

Audit Documents, Except Final Audit Reports

Security Systems

Configuration Of Computer Network

Information Used To Process Electronic Transactions

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Penalties and Individual Liability

- Any aggrieved person, taxpayer, citizen, the attorney general, or prosecuting attorney may file civil action
- One year from ascertainment. Two years from violation

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Remedies

Void action taken if public interest in openness outweighs the public interest in sustaining action

Knowing violation

- Civil penalty up to \$1,000
- Body or member may be ordered to pay attorneys fees

Purposeful violation:

- Civil penalty up to \$5,000
- Body or member must pay attorneys fees

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Questions?

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