



**MISSOURI**  
DEPARTMENT OF  
NATURAL RESOURCES

# Shining the Light on Public Meeting & Records Law **WHAT YOU NEED TO KNOW**

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# TODAY'S ROADMAP

- **Mo. Rev. Stat. Chapter 610**
- **Who is subject to the Sunshine Law?**
  - **Public meetings, votes and records**
- **Sunshine Law and electronic records**
- **Closed meetings, votes and records**
  - **Responding to sunshine requests**



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This presentation is for  
*informational* purposes  
only and should **not** be  
considered legal advice.



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# Public Records

- \* It is the embodiment of Missouri's commitment to openness in government. **Chapter 610 of the Revised Statutes of Missouri** has become known as Missouri's Sunshine Law.



# Missouri Sunshine Law

- \* Who must comply?
- \* “public governmental bodies” which includes most state and local government entities.
- \* **Districts**
  - \* Any department or division of the state, of any political subdivision of the state, of any county or of any municipal government, school district or **special purpose district including but not limited to sewer districts, water districts, and other subdistricts of any political subdivision;**



# Open Records Policy

- \* The District is subject to the provisions of Chapter 610, RSMo, commonly known as the Missouri Sunshine Law. The District recognizes that it is the public policy of the State of Missouri for meetings, records, votes, deliberations, and actions of the District to be open to the public unless otherwise provided by law. The District also recognizes that the law shall be liberally construed and its exceptions strictly construed to promote the state's public policy.



# Open Records Policy

- \* This policy is adopted by the District pursuant to Section 610.028.2, RSMo. The District has appointed a custodian of such records as required by Section 610.023, RSMo. The District will maintain an online resource describing to the public how to submit an open records request.
- \* Most documents retained by the District are open records and shared with the public. However, those records to be closed pursuant to Section 610.021, RSMo, are exempt from disclosure unless specifically determined otherwise.



# What is a Record?

In general, **records created in order to help explain the district's decision making process** most likely have a retention schedule. Examples of **non-record materials** that do not require retention include:

- materials that do not contribute to the understanding of the agency's operations,
- materials that have no substantial administrative or operational value, or
- extra copies of official records.



# Responding to Record Requests

- \* Covers all records maintained by the agency
  - \* Examples: emails, electronic files, paper files, drafts
- \* Entity must respond within 3 business days after Custodian of Records receives the request
- \* Cost Recovery is available



# Electronic Records

- \* Other than e-mail, electronic records could mean:
  - \* Spreadsheets and databases
  - \* Internet history
  - \* Phone records
  - \* Website data
  - \* “Drafts” of documents



## How much can a public governmental body charge for records requests?

Section 610.026.1(1), RSMo, allows a public governmental body to charge up to **10 cents per page for paper copies**, the average hourly rate of pay for clerical staff to duplicate documents, and the actual cost of the research time for fulfilling the request. This provision also requires that the public governmental body use the lowest salaried employees capable of searching, researching and copying the records.



**I was told my request would be ready in 2 weeks. Doesn't the Sunshine Law say they have to give me the records in 3 days?**

Section 610.023.3, RSMo, requires that each request be responded to **as soon as possible, but no later than the end of the third business day** following the custodian of records receipt of the request. If access is not granted immediately, **the custodian of records is required to explain the reason for the delay and the earliest date and time that the records will be available.** Therefore, public governmental bodies are allowed to exceed the three days for production, but they are required to notify you of the delay and explain when they anticipate the records will be ready.



# Meetings

- \* What is a public meeting?
  - \* Any meeting of a public governmental body where public business is discussed, decided, or policy formulated.
  - \* Quorum must be present.
  - \* Meeting may be in-person, via conference call or video conference, internet chat, or other electronic means.
  - \* Notice of all meetings must be posted at least 24 hours in advance.



# Meeting Notice

- \* **Meeting notice must contain:**

- \* Date
- \* Time
- \* Place
- \* Tentative agenda
- \* For closed session: reason for closure, including specific exception/citation authorizing closure
  - \* for example, § 610.021(1), RSMo is sufficient



## Can we add items to the agenda after it has been posted?

Section 610.020.1, RSMo, requires public governmental bodies to post a notice and tentative agenda for each meeting, and that the agenda be constructed in a manner **reasonably** calculated to **advise the public of the matters to be considered**. Further, Section 610.020.2, RSMo, requires that this notice be **posted at least 24 hours** in advance of the meeting. Therefore, any items to which members of the public did not receive at least 24 hours notice should not be discussed during the meeting.



## Can we add items to the agenda after it has been posted?

**EXCEPTION:** However, 610.020, RSMo, includes an exception that states **if for good cause 24 hours notice is impossible or impractical**, the public governmental body shall give as much notice as possible and the nature of the good cause justifying the departure from normal requirements shall be stated in the minutes.



# Meeting Minutes

- \* Minutes of all open and closed meetings shall be taken, including a recording of all votes
- \* Must Include:
  - \* Date, time, and place
  - \* Members present and absent
  - \* Record of votes taken
- \* Open Meeting may be videotaped or recorded by the public



# Closed Meetings

- \* Announce in advance during open session
- \* Need roll call vote to close the meeting, based on a specific provision allowing closure
- \* **Can only discuss business directly related to the basis for closure**
- \* Need closed session minutes



**Our board goes into closed session and we don't know what they are going to talk about. Don't they have to let us know why they are closing the meeting?**

Section 610.022, RSMo, requires that public governmental bodies give at least 24 hours notice of each closed meeting and the reason for holding it by reference to **the specific exception allowed under Section 610.021, RSMo**. Section 610.022, RSMo, also states that no public governmental body can move from an open meeting into a closed meeting without a roll-call vote, and that the vote and specific section of 610.021 shall be publicly announced and entered into the minutes.



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In extreme cases, a **court could void an action taken** in violation of the statute if the public interest in enforcing the Sunshine Law outweighs the public interest in sustaining the action.



# What is NOT a meeting

- \* **Board members e-mail each other about public business – is that considered a meeting?**
  - \* Pursuant to § 610.010(5), RSMo, a public meeting exists when a public body meets and public business is discussed, decided, or public policy is formulated. **A single e-mail about an issue would not in and of itself constitute a meeting requiring advance notice. However, by § 610.025, RSMo, any member of a public governmental body who sends an e-mail relating to public business to a majority of the body shall also send a copy to the member's public office computer or to the custodian of records to be retained as a public record.**



# What is NOT a meeting

- \* **Members of the board get together and talk about business outside of meetings. Is that a violation?**
  - \* Under the Sunshine Law, a **meeting takes place when a majority or quorum of a public governmental body gathers to discuss or vote on public business** (§ 610.010(5), RSMo, and *Colombo v. Buford*, 935 S.W.2d 690 (Mo. App. W.D. 1996)). Therefore, if **less than a quorum of the public body meets to discuss public business, it is not a “meeting”** as defined under the Sunshine Law. However, the Sunshine Law will apply to meetings of groups with less than a quorum when the entity is deliberately attempting to evade the Sunshine Law. See, *Colombo*, cited above. For example, a **public governmental body may not purposely meet in groups with less than a quorum to discuss public business and then ratify those decisions in a subsequent public meeting.**



# Enforcement

- \* Fines up to \$5,000 (for public body or individual members)
- \* Attorney fees
- \* Court can void actions taken in violation of Sunshine Law, when in public interest
- \* Discipline



## Practical Tips

- \* Use email responsibly and professionally. Don't write it in an email if you wouldn't want it in a newspaper headline.
- \* Main exception: attorney-client emails will be protected if truly seeking or receiving legal advice.
- \* **BE MINDFUL OF PERCEPTION ISSUES**
- \* No exception for draft or embarrassing documents!



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*DANCE*

*like no one is watching*

*EMAIL*

*like it may be read aloud*

*in COURT one day.*



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# Other Sunshine Law Resources

- \* Attorney General's Sunshine Law  
Publication, website  
(<http://ago.mo.gov/sunshinelaw/>)



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ANY  
QUESTIONS?????