

## DHHS POLICIES AND PROCEDURES

---

<b>Section III:</b>	<b>Communications</b>
<b>Title:</b>	<b>Media Training Manual</b>
<b>Chapter:</b>	<b>Open Meetings and Public Records</b>
<b>Current Effective Date:</b>	<b>8/1/02</b>
<b>Revision History:</b>	<b>8/1/02</b>
<b>Original Effective Date:</b>	<b>10/1/97</b>

---

### Open Meetings

Under North Carolina law, some meetings must be open to the media. The Open Meetings Law applies to official meetings conducted by elected bodies or by many bodies appointed by elected officials. If quorums of those bodies are together to conduct public business (i.e. anything other than a social purpose,) then the meeting must be open to the public. You should be very careful about the social purpose exclusion. In the past, public officials have used that purpose to skirt the law. Social means no talking business. If you talk business, then that becomes an official meeting that must be open.

The law allows for the meeting to be adjourned to closed or *executive session* for several limited reasons--things like conferring with attorneys, discussing personnel issues or the purchase of property. The body can only discuss those issues in executive session; the board must take any votes in a public session open to the media. The body must produce a general account of the closed session so that the public may understand what happened.

Many of the meetings you are involved with probably don't fall under the definition of meetings required to be open to the media. Internal discussions, staff meetings, meetings with advocacy groups (unless they contain a majority of an elected or appointed board) are not required to be open.

Meetings of appointed bodies like the health services or social services commissions are required to be open. If you or your staff is meeting with a majority of the members of a town council, county commission, local Department of Social Services (DSS) board or local board of health, then that meeting is open.

Although you aren't required to open up meetings that don't fall under the law to reporters, you should consider allowing a reporter to attend a meeting if he or she asks. Many times a reporter will try to tell you that meetings with advocacy groups and the like are "open meetings." They aren't, but for p.r. reasons you may want to open them. Be sure and explain to the reporter that the meeting doesn't fall under the open meetings law, but you want to be as open as possible and that's why you're letting him or her attend.

If you have legal questions about the Open Meetings Law, you should contact the Department of Health and Human Services (DHHS) General Counsel. If you have public relations

questions about the advisability of opening a meeting, you should contact the DHHS Public Affairs Office. A copy of the public meetings law is contained in this chapter.

## **Public Records**

Just about everything you produce is public record. You should bear that in mind when creating any document, including emails and drafts. If you're not prepared to see it in "under the dome," then don't produce it.

There are very few exclusions to the public record law. Major exclusions include: attorney/client discussions, confidential patient/ health records and most personnel records.

Contrary to your armchair attorney, there is no exclusion for draft documents. Stamping draft on a document does not mean you don't have to give it to members of the media.

You also can't control the way a public record is used. You are not allowed to ask a reporter *why* he or she wants a particular document. If it is public record, then it is their right to request it without having to explain how it will be used.

North Carolina has made a concerted effort to make electronic records public as well. If you maintain a record electronically, then a reporter can request the electronic version and you are required to give it to him. You will be required to remove any fields that contain confidential information.

The law requires that you give a document the way you prepared it. You don't have to crunch numbers into a form that doesn't currently exist for a reporter. You are only required to give him or her what you have, in the form you have it, and he or she can crunch his own numbers. Once again, the law and public relations differ. If it is a fairly simple process to do, you might consider crunching the numbers as a way to build trust and rapport with a reporter.

Most personnel records are closed. The only information a reporter is entitled to is name, job title, date employed, date of last personnel action, last personnel action and salary. A department secretary may choose to disclose the closed sections of a personnel file, if it is deemed in the best interest of the department. The decision to open the closed sections must be recorded in a written memorandum. You cannot disclose that section without the secretary's permission. Opening a personnel record can make sense if an employee or former employee is misrepresenting his or her situation.

The public records law also says that agencies are required to make requested records available in a timely basis. You should respond as quickly as possible. The faster you respond, the more open you appear. Some reporters over-interpret the public records law, making outrageous demands. If a reporter calls at 5 p.m. on a Tuesday and makes a lengthy public records request demanding that it must be filled by close of business on Tuesday, you

have the right to explain that the public records law says "timely" fashion. Negotiate with a reporter about when he can expect to receive the documents.

You cannot make a profit from public records. You can charge for the copy/paper costs of a document, but not for the labor involved in copying or producing the document. In other words, you can charge the amount you paid for the computer disc; you can't charge for the data entry operator's time. You can charge for the paper/copy machine costs; you can't charge for the time of the administrative assistant who ran the copies.

If confidential information is commingled with requested nonconfidential information, you must separate, or redact ("white-out") the confidential information at the agency's expense.

If you are short-staffed, you might want to make records and a copying machine available and let the reporter fulfill his or her own request.

If you have legal questions about public records, you should contact the DHHS General Counsel. Public relations questions should be addressed to the DHHS Public Affairs Office. A copy of the public records law is contained in this chapter.

*For questions or clarification on any of the information contained in this policy, please contact [The Office of Public Affairs](#). For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#)*