

1. Open Records & Open Meetings Training

Documents: [OPEN MTG TRAINING-3-16-16-AGENDA.DOC](#)

2. Agenda Items

Documents: [OPEN RECORDS HANDOUT.PDF](#)



**OPEN RECORDS & OPEN MEETINGS
TRAINING
March 16, 2016
6:00 p.m.**

AGENDA

- Item No. 1 Introduction: Jennifer Colangelo
 Assistant Attorney General
 Georgia Dept. of Law
- Item No. 2 Open Records & Open Meetings Presentation
- Item No. 3 Q & A

**The Board of Mayor and Commissioners
and members of other City boards and commissions
will be in attendance.**

Georgia's Open Meetings and Open Records Acts

March 16, 2016

1. Introduction

Georgia's Open Records Act gives the public broad access to governmental records and documents. The public has the right to inspect and copy all "public records," with a few exceptions. This presentation will discuss what public records are and how some of the common exceptions should be applied. It will also discuss the details of how to properly respond to a request for records and how to calculate costs.

The Open Meetings Act requires that all meetings of an agency be open to the public, with very limited exceptions. The presentation will cover the requirements for proper notice of meetings, agendas, minutes, and executive sessions.

2. The Attorney General's Mediation Program

The Open Records Act

3. What are "Public Records"?

- Email, Texts and Web Pages
- Court Records
- "Drafts" of documents

4. Requests for Open Records

- How requests can be made
- An agency's options
- Requiring names and addresses

5. Responding to Open Records Requests

- "Three-Day Letters"
- How to Calculate Costs
- Prepayment and Nonpayment

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Assistant Attorney General

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Non-existent records

6. Exceptions

Proper citation

Exceptions should be interpreted narrowly

Commonly used exceptions

Exceptions outside the Open Records Act

The Open Meetings Act

7. What is a “meeting”?

What is NOT a meeting

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Notices for regular meetings, special meetings, and emergency meetings

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Summary reports

Executive session minutes and affidavits

10. Executive sessions

Allowable topics

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Voting

Procedures

11. Sanctions

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Georgia's Open Meetings and Open Records Acts

March 16, 2016

1. Introduction

The purpose of the Open Records Act and Open Meetings Act is to encourage public access to information and to foster confidence in government through openness to the public.¹

The Open Records Act, as well as the Open Meetings Act, is always interpreted in favor of openness. Exceptions that allow certain records to be withheld should be narrowly construed. If a record can be redacted instead of withheld completely, then it should be redacted.

The Open Meetings Act requires that any gathering of a quorum of the members of the governing body of an agency at which official business is conducted or discussed should be open to the public. The public must be notified in advance, and allowed to make video and audio recordings of the meeting.

2. The Attorney General's Mediation Program

The Attorney General has the power to enforce the Open Meetings Act and the Open Records Act in civil or criminal actions. The goal of the Attorney General in most cases is to obtain compliance, not to sanction, and to educate the public and agencies about the requirements of the Acts. Therefore, he has created an informal open government mediation program to try to resolve disputes between local governments and their citizens. (However, the mediation program does not apply to any state agencies represented by the Attorney General.)

The mediation program allows any citizen to submit a complaint to the Attorney General's office – by mail, by email, or through a form available on the Attorney General's website. If the complaint appears to describe a possible violation of the Open Records or Open Meetings Act, someone from the office will then contact the agency to get their response to the complaint. Nearly all the complaints are resolved at this stage – once an agency receives a letter from the office and has a chance to discuss the issue and the requirements of the Acts, the agency generally complies with the

¹ O.C.G.A. § 50-18-70(a).

Open Records request, or modifies their meeting procedures to comply with the Open Meetings Act.

Most violations that are brought to the Attorney General's attention are the result of a lack of knowledge about what the Acts require, and those disputes have usually been resolved through mediation and education. On rare occasions, the Attorney General will file a lawsuit. This generally occurs when there are repeated violations, deliberate and knowing violations, or an inability to agree on what the law requires.

Some complaints result in a Memorandum of Understanding, in which no lawsuit is filed, but the Attorney General and the agency agree that a violation has occurred and that steps will be taken to prevent future violations. The Attorney General's staff also travels around the state to offer training and presentations to help local governments understand the requirements of the Acts.

The Attorney General's office also takes calls from local governments who need information and guidance on how to comply with the Acts. However, they cannot provide legal advice to anyone except their clients. A city or county attorney can provide advice to local governments and agencies.

3. What are “Public Records”?

“Public record’ means all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, data, data fields, or similar material prepared and maintained or received by an agency or by a private person or entity in the performance of a service or function for or on behalf of an agency or when such documents have been transferred to a private person or entity by an agency for storage or future governmental use.”²

In other words, all the records that an agency (or its employees or officials) create or receive.

a) Email, Texts and Web Pages

All email, text messages and web pages concerning the agency’s business are open. All email, text messages and web pages created or kept on the system’s equipment or devices are open. Email that is sent or received is usually kept on a number of different servers and hard drives. Requesters must be sufficiently specific in their requests to allow the material to be found.

When a requester makes a request for emails from the accounts of several different people, over a long period of time, on a frequently-discussed topic, the request can result in a very large number of documents that will take a long time to review and redact. When those situations are addressed through the mediation program, the Attorney General’s office encourages agencies to discuss the request with the requester and suggest ways that the request could be narrowed in order to reduce the costs.

Emails that a public officer or public employee sends from their personal email account, or receives in their personal email account, may be public records if they discuss public business or have information in them that would be considered a public record. If those emails are requested by a citizen, they should be provided. Each agency should work out a procedure for making those emails available, if they exist.

² O.C.G.A. § 50-18-70(b)(2).

b) Court Records

Because the Open Records Act does not apply to the judiciary branch, records from Superior, State, Juvenile, Magistrate or Probate courts are not covered by the Act.³ However, city courts and municipal courts are subject to the Act.⁴

c) “Drafts” of documents

Your agency may have documents that are in the process of being written and are not in their final version, such as the draft of a report, or a proposed budget. There is not any exception in the Act for drafts; they are subject to the same rules for their release as the final version would be.

³ Ga. Const. Art. VI, § I, Para. I.

⁴ Rule 6 of the Uniform Rules of the Municipal Courts of the State of Georgia.

4. Requests for Open Records

a) How requests can be made

The Open Records Act says: “A request made pursuant to this article may be made to the custodian of a public record orally or in writing.”⁵ Keep in mind that not all requesters have the literacy skills to be able to make a written request.

b) An agency’s options

An agency may designate a specific individual to be an “open records officer” upon whom requests for inspection and copying should be made. That designation should be in writing, and should be provided to anyone who asks. That information should also be provided to the legal organ of the county, and should be posted on the agency’s website.⁶ The advantage of having an open records officer is that the three-day period for responding to a request does not begin until that person receives the request in writing. However, the agency should make sure that someone else is available to receive the requests if the open records officer is away from work.

The agency must allow requests to be made by fax or by email, if the agency normally uses fax or email for other agency business.⁷

An agency can provide a form for requesters to fill out – this will help requesters provide the necessary information. If the agency has a web site, the form can be posted there. Many agencies have a web form that can be filled in and submitted directly from a web page.

Regardless of which of these options is chosen, an agency must still allow verbal requests.

c) Sample letters and forms

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⁵ O.C.G.A. § 50-18-71(b)(1)(B).

⁶ O.C.G.A. § 50-18-71(b)(2).

⁷ O.C.G.A. § 50-18-71(b)(2).

Request for Public Records

First Name*

Last Name*

Address 1*

Address 2

City*

State*

Zip*

Phone Number*

Email Address*

Description of Request Records*

Pursuant to O.C.G.A. §50-18-70, et. Seq, I am formally requesting to:

Do Copies Need to be Certified:

Yes

No

Preferred Manner of Delivery:

Signature of person making the request

The City will respond to this request withing Three (3) working days.

Do you agree*

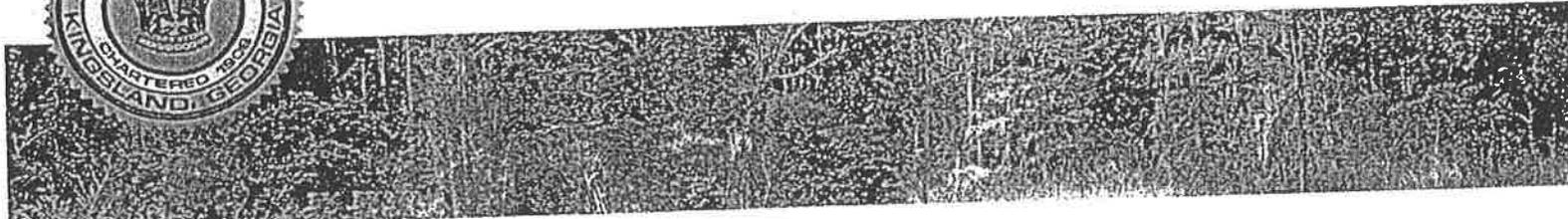
By clicking I agree, you agree and acknowledge that 1) your application will not be "Signed" in the sense of a traditional paper document and 2) By signing in this alternate manner, you agree that your electronic signature is valid and binding upon you to the same force and effect as a handwritten



KINGSLAND *Georgia*

City of Royal Treatment

Search Kingsland...



Open Records Request

[Home](#) > [Departments](#) > [City Clerk](#) > [Open Records Request](#)

Open Records Request

How do I obtain public records?

The City of Kingsland is committed to conducting city business in a manner that complies with all legal requirements, fosters citizen confidence in city government, and promotes efficient and effective governmental operations. The city recognizes the importance of communicating information to citizens and other interested parties and will cooperate in supplying requested information which is considered a matter of public record.

Georgia Open Records Act

The Georgia Open Records Act establishes the right to inspect and/or receive public records, excluding those records that are specifically exempted by court order or law. To inspect and/or receive records, please complete the online form below to submit an open records request. Please be as specific as possible.

After receiving your request, the City of Kingsland will notify you within three (3) business days if there are records responsive to your request and if the records requested are subject to release. The response will be provided in written format and will be sent via email when possible.

Contact Us

Linda M. O'Shaughnessy
City Clerk
[Email](#)

P.O. Box 250
Kingsland, GA 31548

Ph: 912-729-5613
Fax: 912-729-7618

Hours
Monday - Friday
8 a.m. - 5 p.m.

Responses & Fees

Responses shall include the cost to search, retrieve, copy, redact, and/or supervise inspection of the requested document(s). The cost represents the hourly rate of the lowest paid full-time employee who has the necessary skills and training to respond to your request. There is no charge for the first 15 minutes. The fee for letter or legal size copies is \$0.10 per page. Other types of documents or electronic media are charged based upon the City's expense to reproduce the record. Where fees for certain records are otherwise prescribed by law, such specific fees shall apply. Payment is required upon receipt of the records.

Some records are not readily accessible. In these instances, a timeline will be provided as to when the records will be available.

Upon submission of your request, a confirmation receipt will be sent to the email address provided in the request. If you do not receive a confirmation, please resubmit your request or contact us.

Should you have further questions please contact Linda O'Shaughnessy, Open Records Officer for the City of Kingsland, via [email](#) or by telephone at 912-729-5613.

[Click here for Online Form](#)

[Click here for the Open Records Policy](#)



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Agendas & Minutes

UP TO DATE INFORMATION



Citizen Comments

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About Kingsland

Kingsland Georgia is on the Southeast Georgia Coast minutes from Naval Submarine Base Kings Bay, Jacksonville International Airport and Cumberland Island National Seashore. Located just off of the Interstate 95

Helpful Links

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Legal Notice
Accessibility

Quick Links

State of Georgia
Georgia Forestry
Pamlico County GA

Georgia Open Records Act – Request Form

Date: ____ / ____ /20 ____

Requestor's Name: _____

Mailing address: _____

City/State/Zip: _____ / ____ / ____

Telephone number (____) _____ - _____

Pursuant to the Georgia Open Records Law (O.C.G.A. 50-18-70 et seq.), you are hereby requested to make available for review and copying all files, records and other documents in your possessions that refer, reflect or relate to _____

_____ ,
which occurred on, ____ / ____ /20 ____ .

If this request is denied in whole or in part, I ask that you cite in writing the specific statutory exemption upon which you have relied, as required by law. I also ask that you release all separate portions of otherwise exempt material. Prior to preparing the requested items, I request that you inform me of the cost for these items as required by Georgia law.

- I request to pick up these items from the Franklin Police Department, upon being notified of their availability.
- I request that a response to my Open Records Request be mailed to the above indicated address.

Requestor's Signature: _____

This is an interactive form. Please fill in the following information, print a copy and then fax or mail to:

OPEN RECORDS REQUEST FORM
The University of Georgia
Division of Marketing & Communications
286 Oconee St. Suite 200N
Athens, GA 30602
(706) 542-8090
Fax: (706) 542-9492

Date of Request: _____

Requestor: _____ Phone # _____

Fax # _____ Email Address _____

Requesting Agency/Department: _____

Subject of Request:

Comments: (If known - where requested information can be found or to whom [which department] can request be forwarded to):

Reviewed by _____ Date Data entered: _____

Gwinnett County Open Records Request Form

This form is to be used by individuals requesting documents under the Georgia Open Records Act (O.C.G.A. § 50-18-70 et seq.). It should not be used for requests to inspect routinely available records such as agendas, minutes, plats, etc. No Open Records Request is required to be in writing; however, use of this form will assist both the requestor and Gwinnett County to fulfill the request as accurately as possible.

Fields marked * are required

Records Delivery Method *

Do you prefer to review the requested records in person and determine which documents you would like copies of, or should we make copies of the entire requested record and provide it to you?

- Inspect and copy records
- Obtain copies of records
- Email records

Request Type *

Requested Records *

Please be as specific as possible. If you have any identifying information, such as a permit number, please include that in the description.

Request Timeline *

- I would like to review the documents/receive the copies within three business days of this request if the records are available and not exempted by law; however, I understand that if the records cannot be produced within three business days, a timetable for their release will be provided to me
- I do NOT need the documents/inspection within three business days, but would like to review the documents/receive the copies by date :

I understand that pursuant to O.C.G.A. § 50-18-71, I may be charged administrative and copying fees for the cost to search, retrieve, copy, redact, and supervise inspection of the requested documents. The fee for copying is generally \$.10 per letter or legal size page unless otherwise provided by state law. In the case of other documents, I understand that I may be charged the actual cost to produce such documents. In addition, the hourly rate of the lowest paid full-time employee with the necessary skill and training to respond to my request will be charged after the first 15 minutes. I agree to pay all copying and administrative costs incurred in fulfilling my open records request.

Business Name

Name *

Address *

Street number and name City State Zip code

Example: 123 Main St

Email Address *

Telephone Number *

Comments

d) Requiring names and addresses

Nothing in the Open Records Act specifically allows an agency to require that a person requesting records provide their name, address, or phone number. If a person walks in and verbally requests a record that can be provided immediately, and the person is able to pay the costs then and there, then there is not any practical need to require any identifying information.

If the records are not available immediately, the requester will have to provide enough information that they can be notified when the records are available to be picked up. If the requester wants to know if the estimated cost of the records exceeds \$25, they will have to provide some kind of contact information.

In addition, if someone agrees to pay the costs for records they requested but then fails to pay, the Act allows an agency to “collect such charges in any manner authorized by law for the collection of taxes, fees or assessments by such agency.”⁸ Although there has never been a court case or official opinion this issue, an agency might have the right to ask for identifying information if they are providing records without immediately receiving payment.

⁸ O.C.G.A. § 50-18-71(c)(3).

5. Responding to Open Records Requests

Records should be made available within three business days from receipt of the request. When some documents are available and some are not, immediate access must be permitted to the ones that are available.⁹ This is “rolling access.” When in doubt about what is sought, the agency should confer with the requester.

The ORA requires that an agency “produce for inspection” all records responsive to a request. For some types of records, this may mean that you allow the requester to come look at the records in person.

a) “Three-Day Letters”

When some documents are not immediately available, or the agency estimates it is going to charge more than \$25 to produce the records, it must send a letter within 3 business days from receipt of the request.

The three-day letter should state when the documents will be available. If the estimated cost is more than \$25, the three-day letter should also provide the cost estimate. In that case, the agency should wait for approval from the requester before proceeding to work on the request.

The law does not require the agency to provide an itemized breakdown of costs if the estimated cost is more than \$25. However, doing so can save an agency time in the long run, because it may help the requester modify their request to reduce the time and cost to retrieve the records. Many complaints about costs are received through the mediation program; the Attorney General’s office tries to help resolve those disputes by pointing out to an agency that providing a detailed breakdown of costs will help achieve the goals of the Open Records Act, which includes “foster[ing] confidence in government.”

b) How to Calculate Costs

Agencies are not required to charge a fee. Many agencies will waive fees if the amounts are small, in order to avoid the administrative work of collecting the fees.

Costs on letter or legal sized paper are 10 cents per page if copies are made.

⁹ O.C.G.A. § 50-18-71(b)(1)(A).

For copies of CDs, DVDs, videotapes, etc., the actual cost of producing the copy can be charged.¹⁰

In addition, the agency may charge for the “search, retrieval, redaction, and production or copying costs for the production of records....” The rate charged for time is “the lowest paid full-time employee who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request” with the first 15 minutes free. The agency must “utilize the most economical means reasonably calculated to identify and produce responsive, nonexcluded documents....”¹¹

If more than one person works on a request, then the cost should be calculated using the hourly rate for each person. For example, an IT person with a high hourly rate may be needed to retrieve the requested records, but an administrative assistant with a lower hourly rate can make copies and mail the records.

c) Costs for certified copies

The Open Records Act says: “Where fees for certified copies or other copies or records are specifically authorized or otherwise prescribed by law, such specific fee shall apply when certified copies or other records to which a specific fee may apply are sought.”¹²

Therefore, you may only charge an extra fee for certified copies if there is a statute that specifically allows your agency to do so. There are a variety of places that the fees might be provided, depending on which agency has the records.

For example, § 31-10-27 says that the state “shall prescribe uniform fees to be paid to the State Office of Vital Records, local registrars, and local custodians for certified copies of [vital records]. . . The fee for each search or service, certified copy, or record shall be determined by the board.” So if your agency maintains copies of birth certificates or marriage certificates, you would need to check with the State Office of Vital Records to see what fees you are allowed to charge.

¹⁰ O.C.G.A. § 50-18-71(c)(2).

¹¹ O.C.G.A. § 50-18-71(c)(1).

¹² O.C.G.A. § 50-18-71(c)(1).

RECORD RETRIEVAL FEES

The following record retrieval fees may be charged:

Actual time of record preparation (varies)	Hrs x \$	= \$
Actual time of copying (varies)	Hrs X \$	= \$
\$0.10 per page copy	Pages @ \$0.10	= \$
\$ #.00 first CD copy	Copies @ \$ #.00	= \$
\$ #.00 each additional CD copy	Copies @\$ #.00	= \$
Postage		= \$
Other costs:		= \$
Video costs:	Copies @\$ #.00	= \$
Total actual costs:		= \$

The requester is not charged for the first fifteen minutes of time. Charges for time are not to exceed the salary of the lowest paid full-time employee who, in the discretion of the custodian of the records, has the necessary skill and training to perform the request.

d) Prepayment and Nonpayment

The agency may not require prepayment of estimated costs unless the estimated cost is \$500 or more. The agency may require prepayment if a requester did not pay for a previous request where the costs were properly estimated.¹³ If a requester refuses to pay properly estimated costs, the agency may enforce payment like an unpaid tax.¹⁴

If an agency requires prepayment, and the actual final cost is less than the amount prepaid, the agency must refund the overpayment. Some agencies ask for 50% of the estimated cost to be prepaid, in order to avoid the administrative work of refunding overpayments.

e) Non-existent records

You do not have to provide records that don't exist at the time the request is made. A request cannot be made in advance for records will exist in the future.¹⁵

An agency does not have to compile records, create spreadsheets, or create summaries that don't already exist. For example, if a request is received for "a list of the years

¹³ O.C.G.A. § 50-18-71(d).

¹⁴ O.C.G.A. § 50-18-71(c)(3).

¹⁵ O.C.G.A. § 50-18-71(j).

that each employee was hired,” then the requester should be informed that the response will be a copy of a document from each individual’s personnel file that shows that information.

6. Exceptions

a) Proper citation

O.C.G.A. § 50-18-72(a) contains a list of about 50 types of records that are exempt from release. If a request is made for records that fall under one of these exceptions, then the requester should be told exactly which exception applies. For example, the agency should not respond “the requested records contain medical records;” the proper response would be “the requested records contain medical records that are exempt from disclosure under O.C.G.A. § 50 18 72(a)(2).”

b) Sample letter

[next page]



GEORGIA DEPARTMENT OF LAW

40 CAPITOL SQUARE SW
ATLANTA, GEORGIA 30334-1300

SAMUEL S. OLENS
ATTORNEY GENERAL

www.law.ga.gov
(404) 656-3300

Writer's Direct Dial:
404-656-4168
Fax 404-657-9932
jcolangelo@law.ga.gov

December 8, 2015

Joe G. Smith
123 Valley Drive
Atlanta, Georgia 30303

RE: *Your Open Records request, received December 4, 2015*

Dear Mr. Smith:

I am writing in response to your request for records, which the Attorney General received on December 4, 2015. You made the following request:

1. All emails, documents and records that have the following names in the body, subject or title that have been sent to and or received from any person directly or indirectly since January 1, 2015: Patrick Flanagan, Patricia Flanagan
2. All emails, documents and records that have the following names in the body, subject or title that have been sent to and or received from any person directly or indirectly since January 1, 2013: Water Department, Facilities Department
3. All bills for court transcripts received and paid since July 15, 2015.

We searched our document server, which contains letters, spreadsheets, and other types of files, for all the keywords that you provided. We found one document that was responsive to your request for documents containing the search term "Patrick Flanagan" and another containing "Patricia Flanagan." Those two documents are enclosed.

We searched our case management system, which tracks the physical files that we have opened. One of those files contained a letter with an attachment matching the search term "Water Department;" that letter and attachment are enclosed.

We searched our email server for all the keywords that you provided. We have located approximately 870 emails that may be responsive to your request, but many of them appear to be duplicates.

Mr. Joe G. Smith
December 8, 2015
Page 2

I estimate that it will take 5 days to go through the emails that we have located, eliminate any duplicate records, and redact any information that may need to be withheld. I expect that some records may be withheld pursuant to O.C.G.A. §§ 50-18-72(a)(41) [Attorney-client privilege] and 50-18-72(a)(42) [Confidential attorney work product]. If any other exceptions are relied on after the records are reviewed, I will provide those statutory provisions.

I estimate that it will take approximately 5 hours to review and redact the records. At an hourly rate of \$17.50 for an administrative assistant to do the work, the approximate cost would be \$87.50; that amount will vary based on the actual number of records and time required.

If printouts of the records are provided, at a cost of 10¢ per page, I estimate the copying cost will be \$20. If you would rather have the records scanned and burned onto a CD, please let me know; the cost for that will be less than \$5.00. I think that the number of pages will be too large for us to email the records, but I will let you know if that turns out to not be the case.

Therefore, I expect the total cost to be approximately between \$92.50 and \$107.50.

Please let me know if you would like us to proceed with assembling and providing you with the remaining records that we have located.

Sincerely,

JENNIFER COLANGELO
Assistant Attorney General

Enclosure

c) Exceptions should be interpreted narrowly

O.C.G.A. § 50 18 70(a) states: “The exceptions set forth in this article, together with any other exception located elsewhere in the Code, shall be interpreted narrowly to exclude only those portions of records addressed by such exception.” In other words, if confidential information can be redacted, then it should be redacted and the rest of the record should be provided, as opposed to withholding the whole record.

d) Commonly used exceptions

50-18-72(a)(20) [Personal information]

You should redact the following:

- social security number
- mother's birth name
- credit card information
- debit card information
- bank account information
- account number
- utility account number
- password used to access his or her account
- financial data or information
- insurance or medical information in all records
- unlisted telephone number if so designated in a public record
- personal e-mail address or cellular telephone number
- day and month of birth

Times when you would NOT have to redact that information:

- if the person requesting such records requests such information in a writing signed under oath by such person,
- AND that writing states that such person is gathering information as a representative of a news media organization for use in connection with news gathering and reporting;
- AND provided, further, that such access shall be limited to social security numbers and day and month of birth.

And some more times you would **not** have to redact:

- An individual or his or her legal representative may obtain records containing that individual's social security numbers, mother's birth name, credit card, debit card, bank account, financial data, insurance data, or medical information
- A government employee may obtain records containing social security numbers, mother's birth name, credit card, debit card, bank account, financial data, insurance data, or medical information if he or she is doing so for administrative or law enforcement purposes
- Any individual may obtain date of birth and mother's birth name of a deceased individual
- The disclosure of information as authorized by the order of a court of competent jurisdiction upon good cause shown to have access to any or all of such information upon such conditions as may be set forth in such order
- The disclosure of information to a court, prosecutor, or publicly employed law enforcement officer, or authorized agent thereof, seeking records in an official capacity;
- The disclosure of information necessary to comply with legal or regulatory requirements or for legitimate law enforcement purposes
- The disclosure of the date of birth within criminal records.
- **NOTE:** there is nothing requiring **ages** to be redacted.

50-18-72(a)(21) [Public employee information]

You should redact the following:

- *everything listed above*
- public employee's home address
- home telephone number
- day and month of birth
- financial data or information other than compensation by a government agency
- unlisted telephone number if so designated in a public record
- the identity of the public employee's immediate family members or dependents

50-18-72(a)(3) [Records compiled for L/E or prosecution]

You may withhold the following:

- Records “compiled” for “law enforcement or prosecution purposes” . . .
- IF the production of those records is “reasonably likely to disclose the identity of a confidential source,”
- OR IF production is “reasonably likely to disclose confidential or investigative or prosecution material which would endanger the life or physical safety of any person”
- OR IF production is “reasonably likely to disclose the existence of a confidential surveillance or investigation.”

- **NOTE:** This exception applies to any agency that has such records, even if that agency is not a law enforcement agency.

50-18-72(a)(4) [Records of a pending investigation or prosecution]

You may withhold the following:

- Records of a law enforcement, prosecution, or regulatory agency . . .
- in any pending investigation or prosecution of criminal or unlawful activity . . .
- other than “initial police reports” and “initial arrest reports”

- This will include any material gathered or created by law enforcement during the investigation: statements written by witnesses, photographs, photo lineups, physical evidence, lab reports.

- **NOTE:** Does not apply to records in the possession of an agency that is the subject of the pending investigation or prosecution.

- **ANOTHER NOTE:** There are no exceptions to this exception that would apply to an individual who is the subject of the investigation. The Defendant in a criminal case does get more (or less) records than any other requester.

50-18-72(a)(8) [Records of internal investigations]

You may withhold the following:

- “Records consisting of material obtained in investigations related to the suspension, firing, or investigation of complaints against public officers or employees”
- UNTIL 10 days after the report has been presented to the agency for action, OR UNTIL 10 days after the investigation is otherwise concluded or terminated.

50-18-72(a)(10) [Sealed bids or proposals]

You may withhold “pending, rejected, or deferred sealed bids of proposals and detailed cost estimates related thereto until such time as the final award of the contract is made, the project is terminated or abandoned, or the agency in possession of the records takes a public vote regarding the sealed bid or sealed proposal, whichever comes first.”

50-18-72(a)(34) [Trade secrets]

You may withhold “any trade secrets obtained from a person or business entity that are required by law, regulation, bid, or request for proposal to be submitted to an agency.”

However, if the business that submits the records containing the trade secrets wants to keep them secret, they must submit and attach to the records an affidavit “affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10.” If the business does that, the agency must notify them when a request is made for those records. Further procedures will follow; refer to O.C.G.A. § 50-18-72(a)(34) for the details.

e) Exceptions outside the Open Records Act

OCGA § 45-16-27: Coroners, death investigations, and autopsies

Autopsies and coroners reports should be released, except as follows:

“(d) Autopsy photographs shall not be subject to disclosure pursuant to [the Open Records Act];

provided, however, that this subsection shall have no application to the disclosure of such photographs to law enforcement agencies and prosecutors for law enforcement purposes or, in closed criminal investigations, to medical schools, medical facilities, and physicians for medical purposes; to individuals who have secured a written release from the deceased's next of kin; or to the next of kin.”

“(e) (1) Crime scene photographs and video recordings, including photographs and video recordings created or produced by a state or local agency or by a perpetrator or suspect at a crime scene, which depict or describe a deceased person in a state of dismemberment, decapitation, or similar mutilation including, without limitation, where the deceased person's genitalia are exposed, shall not be subject to disclosure pursuant to [the Open Records Act];”

- *Except to next of kin, as in section (d)*
- There are also some exceptions having to do with a habeas corpus lawsuit

OCGA § 31-7-75.2: Hospital plans

Hospital plans, proposals, or strategies that are potentially commercially valuable and have not be made public, until such time as the plan, proposal, or strategy has been either approved or rejected.

7. What is a “meeting”?

A meeting is a gathering of the quorum of the governing board of an agency (or the subcommittee of that board) at which any official business, policy, or public matter is discussed, formulated, presented, or voted on.¹⁶

“Gatherings involving an agency and one or more neutral third parties in mediation of a dispute between the agency and any other party” are not considered meetings.¹⁷

a) What is NOT a meeting¹⁸

- Inspecting facilities or property where no other official action is discussed or taken [O.C.G.A. § 50-14-1 (a)(3)(B)(i)].
- Attending statewide or regional meetings or training on matters related to the purpose of the agency and where no official action is taken [O.C.G.A. § 50-14-1(a)(3)(B)(ii)].
- Meetings, where no official action is taken, with state or federal legislative or executive officials at state or federal offices [O.C.G.A. § 50-14-1 (a)(3)(B)(iii)].
- Traveling together where no official business, policy, or public matter is formulated, presented, discussed or voted on [O.C.G.A. § 50-14-1 (a)(3)(B)(iv)].
- Attending social, civic, ceremonial or religious events where no official business, policy, or public matter is formulated, presented, discussed or voted on [O.C.G.A. § 50-14-1(a)(3)(B)(v)].

¹⁶ O.C.G.A. § 20-14-1(a)(3)(A)

¹⁷ O.C.G.A. § 50-14-3(a)(5)

¹⁸ O.C.G.A. § 50-14-1(a)(3)(B)

b) Subcommittees

If a board creates subcommittees to handle certain matters, then a gathering of the quorum of one of the subcommittees is considered a meeting. That meeting must be open to the public, and notice must be given.

c) Open access¹⁹

A meeting must be open to the public, and member of the public may make visual and sound recordings of the open portions of any meeting. An agency may designate an area where equipment for visual and sound recordings can be placed, so that the equipment does not obstruct the view of meeting attendees and use of the equipment is not disruptive to the meeting.

Motions and votes taken during the meeting should be clear and specific enough that the public knows what is being discussed or voted on.

d) Public comments

The Open Meetings Act does not require an agency to allow public comments at their meetings. Many agencies do allow public comments, and they do so in various ways, depending on the type of agency they are.

¹⁹ O.C.G.A. § 50-14-1(b)(1), O.C.G.A. § 50-14-1(c).

8. Notices and agendas

a) Notices for regular meetings²⁰

- Notices must be posted at least 1 week in advance, at the place of the meeting, and on the agency's website.
- An agency must establish a regular meeting schedule (such as "the 2nd Tuesday of every month at 5:00 p.m.) with a regular meeting place.

b) Notices for special meetings²¹

- If an agency has a meeting other than the regularly scheduled meetings, "written or oral notice shall be given at least 24 hours in advance of the meeting to the legal organ in which notices of sheriff's sales are published in the county."
- Notice should also be given to any local broadcast or print media outlet in the county that had previously requested notice.

c) Notices for emergency meetings²²

- "When special circumstances occur and are so declared by an agency, that agency may hold a meeting with less than 24 hours' notice"
- Notice must be "reasonable" and be given to the usual legal organ and media outlets.

d) Agendas²³

Every meeting – regular, special, emergency – must have an agenda of all the matters expected to come before the agency. The agenda "shall be available upon request and shall be posted at the meeting site, as far in advance of the meeting as reasonably possible." The Act suggests that a week or two before the meeting is "reasonable."

²⁰ O.C.G.A. § 50-14-1(d)(1)

²¹ O.C.G.A. § 50-14-1(d)(2)

²² O.C.G.A. § 50-14-1(d)(3)

²³ O.C.G.A. § 50-14-1(e)(1)

Agendas should be specific enough to inform the public of what matters the agency expects to discuss or vote on. If an agenda is the same every month, it is probably not specific enough. For example, “personnel discussion” is too vague; “Discussion of hiring a new city manager” is appropriate.

e) Sample agendas

[next page]

City of Forestville Park
City Council Meeting

December 1, 2015 – 6:00 p.m.

Agenda

1. Welcome and Call to Order
2. Approval of previous month's minutes
3. City Manager's report
4. Committee reports
 - a. Facilities committee
 - b. Finance committee
5. Review Action Items from last month's meeting
6. New business
7. Announcements
8. Executive session
9. Adjourn



Sample agenda #1



**Tuesday, December 15, 2015
MACON-BIBB COUNTY REGULAR COMMISSION**

**6:00 P.M.
Commission Chamber
Government Center
700 Poplar Street
Macon, GA**

1. CALL TO ORDER

Subject A. Mayor Robert A. B. Reichert
Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 1. CALL TO ORDER
Type Procedural

2. PRAYER

Subject A. TO BE DETERMINED
Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 2. PRAYER
Type Procedural

3. PLEDGE OF ALLEGIANCE

Subject A. The Pledge of Allegiance to be led by Georgia Civic Awareness Program Students (GCAPS) Jonathon Diaz and Jaaziel Diaz
Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 3. PLEDGE OF ALLEGIANCE
Type Procedural

4. APPROVAL OF MINUTES

Subject A. Minutes of Pre-Commission Meeting held December 1, 2015
Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 4. APPROVAL OF MINUTES
Type Minutes

File Attachments

[12-1-2015 - Pre-Commission Minutes.pdf \(30 KB\)](#)

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 7. REPORTS FROM COMMITTEES
Type Report

8. CONSENT AGENDA

Subject A. New Alcoholic Beverage License for H & H Soul Food, LLC d.b.a. Moonhanger Catering & Events located at 484 First Street, Macon, Ga. 31201

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 8. CONSENT AGENDA
Type Action

File Attachments

[12-15-2015 - H & H.pdf \(1,203 KB\)](#)

Subject B. New Alcoholic Beverage License for E-Z Mart located at 3253 Mercer University Drive, Macon, Ga. 31210

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 8. CONSENT AGENDA
Type Action (Consent)

File Attachments

[12-15-2015 - E-Z Mart.pdf \(1,550 KB\)](#)

Subject C. New Alcoholic Beverage License for Mahadev 2014, Inc. d.b.a. Quick Zip #2 located at 1800 Pio Nono Avenue, Macon, Ga. 31204

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 8. CONSENT AGENDA
Type Action (Consent)

9. OLD BUSINESS

Subject A. SECOND READING - An Ordinance to adopt a restatement of the Macon-Bibb County Pension Plan (formerly known as the Bibb County Pension Plan of 1968) so as to incorporate prior amendments and for filing with the Internal Revenue Service for a determination letter; to include the Plan as Appendix I to the Charter of Macon-Bibb County so as to provide for codification of the Plan

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING
Category 9. OLD BUSINESS
Type Action

Recommended Action The Operations and Finance Committee recommends approval

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

File Attachments

[12-15-2015 - Res Agrmt Jones Lang LaSalle Annex Bldg \\$20000 00.pdf \(3,681 KB\)](#)

Subject **E. A Resolution authorizing the Mayor to execute an Intergovernmental Rental Agreement with the State Properties Commission on behalf of the Department of Juvenile Justice for space at the Thomas Jackson Juvenile Justice Center for \$1.00 per year**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Operations and Finance Committee recommends approval

SPONSORED BY MAYOR ROBERT A. B. REICHERT

File Attachments

[12-15-2015 - Res DJJ Rental Agrmt Thomas Jackson Center.pdf \(1,316 KB\)](#)

Subject **F. A Resolution approving and authorizing the Mayor to execute a Memorandum of Understanding with Operation Hope, Inc. to provide financial literacy education and counseling to low and moderate income individuals and families in an amount not to exceed \$30,000 to be paid from the Small Business Affairs Budget**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Operations and Finance Committee recommends approval

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

File Attachments

[12-15-2015 - Res MOU Operation Hope Literacy Education \\$30000 00.pdf \(2,530 KB\)](#)

Subject **G. A Resolution to authorize the Mayor to execute a contract with Turnerboone, LLC for the purchase of interior furnishings for the office of the Solicitor-General in the amount of \$88,149.61 to be paid from the Office of the Solicitor-General's budget**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Operations and Finance Committee recommends approval

File Attachments

[12-15-2015 - Ord Revise Chap 19 Art I of Inauqural Code of Ordinances.pdf \(3,229 KB\)](#)

Subject **K. A Resolution regarding County issued purchasing and/or credit cards issued to Elected Officials**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Operations and Finance Committee recommends approval

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

File Attachments

[12-15-2015 - Res County Issued Purchasing Cards.pdf \(485 KB\)](#)

Subject **L. A Resolution to authorize employees of Museum of Arts and Sciences, Inc., an IRS approved 501(C)(3) non-profit organization which provides Governmental, Public and / or Community Services for the benefit of the Citizens of Macon-Bibb County to receive the same health, dental, vision, and life insurance benefits offer to Macon-Bibb County employees.**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Operations and Finance Committee recommends approval

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

File Attachments

[12-15-2015 - Res Museum of ArtsSciences Employee Benefits.pdf \(1,502 KB\)](#)

Subject **M. A Resolution to authorize employees of Macon Arts Alliance Inc an IRS approved 501(C)(3) non-profit organization which provides Governmental, Public and / or Community Services for the benefit of the Citizens of Macon-Bibb County to receive the same health, dental, vision, and life insurance benefits offer to Macon-Bibb County employees.**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Operations and Finance Committee recommends approval

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

Subject **Q. A Resolution to place a plaque with the names of the City Council Members and Mayor in office at the time that Rosa Park Square was approved by City Council in honor of the 60th anniversary of the Montgomery Bus Boycott**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Economic and Community Development Committee recommends approval

SPONSORED BY: COMMISSIONERS ELAINE LUCAS AND LARRY SCHLESINGER

File Attachments

[12-15-2015 - Res Committee Amendment Plaque at Rosa Parks Square.pdf \(498 KB\)](#)

Subject **R. A Resolution to authorize a settlement agreement between Macon-Bibb County and Richard S. George regarding the extension of Crawford Road; to authorize a one time payment of \$5,000 toward the extension of Crawford Road; to authorize the acceptance and future maintenance of Crawford Road upon the completion of said extension**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Facilities and Engineering Committee recommends approval

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

File Attachments

[12-15-2015 - Res Settlement Agrmt Extension Crawford Rd \\$5000 00 \(2\).pdf \(1,357 KB\)](#)

Subject **S. A Resolution requesting that the local Legislative Delegation introduce legislation during the 2016 Session of the Georgia General Assembly for the purpose of amending the Charter of Macon-Bibb County to change the current process governing the removal of Administrative Heads of the Departments and Agencies of Macon-Bibb County**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 9. OLD BUSINESS

Type Action

Recommended Action The Committee of the Whole recommends approval

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

File Attachments

[12-15-2015 - Lucas and Schlesinger Request for Local Delegation to Amend Department Head Removal Process u](#)

Subject **C. A Resolution appointing Melinda D. Robinson-Moffett to serve as a Commissioner of the Macon Housing Authority**

Meeting Dec 15, 2015 - MACON-BIBB COUNTY REGULAR COMMISSION MEETING

Category 10. NEW BUSINESS

Type Action

Recommended Refer to the Economic and Community Development Committee
Action

SPONSORED BY: MAYOR ROBERT A. B. REICHERT

File Attachments

[12-15-2015 - Res Appoint Melinda D Robinson-Moffett as Commissioner of Housing Authority.pdf \(1,212 KB\)](#)

11. PUBLIC COMMENTS ON NON-AGENDA ITEMS

12. ADJOURNMENT

9. Minutes

a) When minutes should be available²⁴

The minutes of a meeting should be “promptly recorded.” The minutes should be “open to public inspection once approved as official by the agency or its committee, but in no case later than immediately following its next regular meeting.”

Minutes must include:

- The names of the members present at the meeting
- A description of each motion or other proposal made
- The identity of the persons making and seconding the motion or other proposal
- A record of all votes
- The names of each person voting for or against a proposal, unless it is unanimous

b) Summary reports²⁵

“A summary of the subjects acted on and those members present at a meeting of any agency shall be written and made available to the public for inspection within two business days of the adjournment of the meeting.”

c) Executive session minutes and affidavits²⁶

“Minutes of executive sessions shall also be recorded but shall not be open to the public. Such minutes shall specify each issue discussed in executive session...” The minutes should be kept and preserved in case they are needed in the future.

If attorney-client privileged matters are discussed, only the general topic needs to be recorded, not the details of the discussion.

²⁴ O.C.G.A. § 50-14-1(e)(2)(B).

²⁵ O.C.G.A. § 50-14-1(e)(2)(A).

²⁶ O.C.G.A. § 50-14-1(e)(2)(C).

10. Executive sessions

a) Allowable topics²⁷

There are a limited number of topics that can be discussed in executive session.

- “Tax matters which are otherwise made confidential by state law.”
- Discussions where it is necessary to discuss records that are exempt from public inspection under the Open Records Act, and there is no other “reasonable means” by which the agency can discuss those records
- Consulting with an attorney about actual or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought by or against the agency, or in which the agency is directly involved
- Authorizing the settlement of lawsuits and similar matters
- Authorizing negotiations to purchase, dispose of, or lease real property; authorizing an appraisal of real property; entering into a contract to purchase, lease, etc. real property; entering into an option to purchase, lease, etc.
- Discussing or deliberating on the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee.
 - However, an agency should not receive evidence or hear arguments on legal matters in executive session
 - The final votes should be taken in public.
- Interviewing applicants for the executive head of an agency.
 - The final votes should be taken in public.

b) Confidentiality

The Open Meetings Act does not contain a requirement that the matters discussed in executive session must be kept private. However, there are probably other provisions of law that apply.

²⁷ O.C.G.A. § 50-14-3(b).

For example, if a school board is discussing an issue related to a particular student, then federal privacy laws (such as the Family Educational Rights and Privacy Act) may prevent the student's information from being revealed outside of the executive session.

As another example, real estate transactions may be discussed in executive session because public knowledge about the proposed transaction may cause the price of the property to rise. If a board member were to publicly discuss the proposed transaction and the agency had to pay a higher price as a result, that could be considered a breach of a fiduciary duty.

Finally, a board may create its own Code of Ethics that requires members to keep executive session discussions private.

c) Voting²⁸

Votes may be taken in executive session to “acquire, dispose of or lease real estate, or to settle litigation, claims, or administrative proceedings.” However, the vote is not binding until a subsequent vote is taken in an open meeting where the terms are disclosed before the vote.

d) Procedures

The meeting agenda, and the minutes, should state the general reasons for the executive session. During the meeting, one member should move to go into executive session, another should second the motion, and then the board should vote. The board should also vote to adjourn the executive session.

Only people who are necessary for the discussion of the executive session topic should be present for the discussion. This may include the individual who takes the minutes.

An “executive session affidavit” must be signed and notarized after the meeting. That affidavit requires the board members to state under oath “that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law,” and the affidavit should identify the specific relevant exceptions. This affidavit must be attached to the meeting minutes and by made available to the public.

[samples on next page]

²⁸ O.C.G.A. § 50-14-3(b)(1)

Government in the Sunshine

SAMPLE AFFIDAVIT

Before an officer duly authorized to administer oaths appeared _____, who, after being duly sworn, deposes and on oath states the following:

- (1) I am competent to make this Affidavit and have personal knowledge of the matters set forth herein.
- (2) Pursuant to my duties as _____, I was the presiding officer of a meeting of the _____ City Council held on the ___ day of __, __. A portion of said meeting was closed to the public.
- (3) It is my understanding that O.C.G.A. § 50-14-4(b) provides as follows:

When any meeting of an agency is closed to the public pursuant to subsection (a) of this Code section, the person presiding over such meeting or, if the agency's policy so provides, each member of the governing body of the agency attending such meeting, shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

- (4) The subject matter of said meeting, or the closed portion thereof, was devoted to matters within exceptions to public disclosure provided by law. Those specific relevant exceptions are identified as follows: *(Using the list below as a guide list in the affidavit **only** the exceptions actually applicable to the specific closed meeting.)*

A. Meeting to discuss or vote to authorize the settlement of a matter covered by the attorney-client privilege as provided in Georgia Code section 50-14-2(1) and 50-14-3(b)(1)(A). The subject discussed was *[identify the case or claim discussed but not the substance of the attorney-client discussion]*.

B. Meeting to discuss or vote to authorize negotiations to purchase, dispose of or lease property as provided in Georgia Code section 50-14-3(b)(1)(B).

Open Meetings

- C. Meeting to discuss or vote to authorize the ordering of an appraisal related to the acquisition or disposal of real estate as provided in Georgia Code section 50-14-3(b)(1)(C).
- D. Meeting to discuss or vote to enter into a contract to purchase, dispose of, or lease property subject to approval in a subsequent public vote as provided in Georgia Code section 50-14-3(b)(1)(D).
- E. Meeting to discuss or vote to enter into an option to purchase, dispose of, or lease real estate subject to approval in a subsequent public vote as provided in Georgia Code section 50-14-3(b)(1)(E).
- F. Meeting to discuss or deliberate upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee as provided in Georgia Code section 50-14-3(b)(2).
- G. Meeting to interview one or more applicants for the position of the executive head of an agency as provided in Georgia Code section 50-14-3(b)(2).
- H. Pursuant to the attorney-client privilege and as provided by Georgia Code section 50-14-2(1), a meeting otherwise required to be open was closed to the public in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved and the matter discussed was identify the matter but not the substance of the discussion.
- I. Staff meeting held for investigative purposes under duties or responsibilities imposed by law as provided by Georgia Code section 50-14-3(a)(1).

Government in the Sunshine

J. Meeting to consider records or portions of records exempt from public inspection or disclosure pursuant to Article 4 of Chapter 18 of Title 50 of the Georgia Code because there are no reasonable means to consider the record without disclosing the exempt portions.

This Affidavit is executed for the purpose of complying with the mandate of O.C.G.A. § 50-14-4(b) and is to be filed with the official minutes for the aforementioned meeting.

This ____ day of _____, _____, _____

Affiant

Sworn to and subscribed before me
this ____ day of _____, _____.

Notary Public

AFFIDAVIT

The undersigned chair or presiding officer, under oath, certifies that at a meeting of the [name of the Board] held on _____, the meeting was closed as permitted by the Open Meetings Act of Georgia. The only matters considered or discussed during the closed portion or executive session of this meeting are as checked below:

_____ To discuss or deliberate upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee or to interview applicants for the position of superintendent; (O.C.G.A. § 50-14-3(b)(2)).

_____ To discuss or vote to authorize negotiations to purchase, dispose of, or lease property; authorize ordering an appraisal related to the acquisition or disposal of real estate; enter into a contract to purchase, dispose of, or lease property subject to approval in a subsequent public vote; or enter into an option to purchase, dispose of or lease real estate subject to approval in a subsequent public vote; (O.C.G.A. § 50-14-3(b)(1)).

_____ To review an appeal from a Student Disciplinary Tribunal [or use one of these names as applicable, Hearing Officer, Panel]; (O.C.G.A. § 20-2-757).

_____ To consider a matter involving the disclosure of personally identifiable information from a student's educational records; (20 USC § 1232g; O.C.G.A. § 50-14-3(b)(4)).

_____ To discuss records that are otherwise protected from disclosure under the Open Records Act and there is no reasonable means to consider the records without closing the meeting; (O.C.G.A. § 50-14-3(b)(4)).

_____ To consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the school district or an officer or employee or in which the officer or employee may be directly involved; (O.C.G.A § 50-14-2(1)).

This _____ day of _____, _____.

Chair or Presiding Officer

OPTION: [§ 50-14-4(b)(1) allows board to require each member to sign. Delete this section if board's policy is that only the presiding officer signs].

Board Member

Sample affidavit # 2

Board Member

Sworn to and subscribed before me
on the above indicated date:

Notary Public, State of Georgia
Commission Expires _____

[NOTARY SEAL]

This policy is provided solely as a sample. Any board of education adopting such a policy should use this sample as a framework or starting point and, after carefully reviewing the applicable laws, regulations and state rules, modify the policy as appropriate to meet the needs of the local school system. Any policy should be carefully reviewed by the board of education's legal counsel.

S. H. ...

11. Sanctions

Violations of either the Open Records Act or the Open Meetings Act can lead to a \$1000 fine for a first violation and a \$2500 fine for each additional violation within 12 months. The standard for a civil violation is negligence. The standard for a criminal violation (misdemeanor) is willfulness. Attorney's fees may also be awarded.

Home » Key Issues » Open Government

Open Government

"Government operates best when it operates openly." --Attorney General Olens

The Law

Help in locating provisions of the Open Meetings and Open Records Acts.

HB 397 - Georgia's Updated Sunshine Laws

Attorney General Sam Olens has made open government a priority. HB 397 was overwhelmingly passed by the General Assembly and signed into law by Governor Nathan Deal on April 17, 2012.

How to Make an Open Records Request

Information on where and how to make an open records request.

Open Government Mediation Program

The Open Government Mediation Program is a service of the Attorney General's office designed to assist members of the public whose local governments may not be complying with requirements of the Open Meetings Act or the Open Records Act.

Open Government Complaints

If you have a complaint concerning local government, you may file an online complaint [here](#).

Related Files

Attachment	Size
 A Citizen's Guide to Accessing School Records	370.71 KB
 A Law Enforcement Officer's Guide to Open Records	332.97 KB
 A Citizen's Guide to Open Government	198.7 KB

Georgia's Sunshine Laws



**GEORGIA FIRST
AMENDMENT
FOUNDATION**
your right to know

A Citizen's Guide to Open Government

Office of the Georgia Attorney General

Sam Olens,
Attorney General

In Cooperation with the
Georgia First Amendment Foundation
and the Georgia Press Association