

Sunshine Law Policy

APPOINTING A CUSTODIAN OF RECORDS AND ADOPTING A SUNSHINE LAW POLICY FOR THE ...Name of Public Governmental Body

Section One. Policy. This public governmental body desires to conduct its business in a public fashion, and to advise all citizens of the community of meetings of members of the public governmental body and all committees thereof. We recognize that records of the public governmental body are records that belong to the citizens, and as a general matter should be available to the public as a matter of course. However, there are occasionally reasons that some meetings and some records need to be closed to the public, This policy is designed to explain to the body's staff and to our patrons and to the public at large the ways that we plan to implement the Missouri Open Meetings and Records Act (Chapter 610 of the state statutes).

Section Two. Custodian of Records Designated. The <title/name of custodian> is hereby designated as the "custodian of records" for this public governmental body. Such designation does not mean that the Custodian will necessarily have all the records in his or her possession, but simply is an indication to whom requests for copies of records and information regarding the public governmental body shall be directed. Requests for records made to persons other than the Custodian of Records may not be considered to be requests that are made pursuant to the Missouri Sunshine Law, Chapter 610 of the state statutes. Nonetheless, any official of the public governmental body who receives a request is directed to inform the Custodian of the request in a timely fashion, so that a response may be made to the request.

Section Three. How Records are Requested. The custodian of records shall request that all requests for records, notices, or information be made in writing, although it shall not be a reason to refuse the request that the person making the request declines to put the request in writing. The custodian of records may require that all requests be accompanied by a deposit of the estimated cost of reproducing the requested information. Oral requests, if received by the public governmental body, shall be immediately recorded in written form by the custodian of records to document the same. Any request received by the Custodian of Records shall be initialed by him/her, with the date and time of receipt noted.

Section Four. Response Desired to be Noted on Request. The requesting party shall

indicate on the request the manner in which a response is desired. In absence of instructions to the contrary, it will be assumed that the requesting party wants to receive a response in the same form as the original request. (Example, if someone stops by the Custodian of Records' residence and requests copies of documents, it will be assumed that the requesting party will stop by the Custodian of Records' residence later to pick up the documents. But if someone mails a request to the public governmental body's offices, it will be assumed that a mailed response is desired).

Section Five. Response Within 3 Business Days. The Missouri Sunshine Law requires a response to a request to be provided within 3 business days, and seems to define a business day as a day when the public governmental body's office is open to the public. For purposes of this policy, the Custodian of Records is directed to respond to a records request within 3 calendar days, not counting Saturdays, Sundays, or any day which is a state holiday either as provided by statute or by executive order of the governor of Missouri.

Section Six. Documentation of Response. The Custodian of Records shall document the response provided either by (1) making an extra copy of the response and attaching it to the original request, (2) noting on the request what documents were provided, or (3) keeping a copy of any letter or note requesting additional information in order to process the request.

Section Seven. Request for Searches. A request for copies of "all documents" or "every document" of a particular sort involves a request to search through every record of the public governmental body in order for it to certify that it has provided "all" or "every" document. Such searches are expensive. Similarly, a request for records compiled in a format differing from the format in which the records are customarily retained is a request for a search and compilation, and can be expensive. As a general rule, the Custodian of Records is not expected to engage in extensive searches or compilations. Any search request that will require more than 30 minutes of the Custodian's time may be declined without an advance deposit for the estimated time required to search for the records.

Section Eight. Fees for Retrieval and Copies. Fees for search, retrieval, accompanying, and returning to their proper storage all District documents shall be:

A. Fees for search and retrieval:

- a. For a search of 30 minutes or less: no retrieval fee.

- b. For a search, retrieval, accompanying, and return of documents requiring more than 30 minutes: \$5 for each period of 30 minutes or less, including the first 30 minute period.
- c. For expert assistance retrieving electronic information: actual costs incurred.

B. Fees for copies of documents shall be:

- a. For copies than can be made on any machine available to the public governmental body or its officials: 10 cents per side of a page.
- b. For copies that must be made elsewhere: the actual charges imposed for making the copies (including any taxes imposed) as well as the fee provided above for search, retrieval, accompanying, and returning to proper storage.

C. For delivery of copies: Actual costs incurred for postage, messenger service, etc.

Section Nine. Inspection of Records. To reduce the cost to both the requesting party and the public governmental body, the Custodian of Records may permit a physical inspection of the records by the requesting party to help specify what documents are needed. The Custodian may impose such security as is deemed appropriate to guarantee that no record is removed from the body's files.

Section Ten. Waiver of Fees. The Custodian of Records is empowered to waive the collection of any of the fees totaling less than \$5 provided in Section 8 above to any local resident requesting documents from the public governmental body, or to any representative of news media. No person or organization shall receive more than 3 such waivers in any 12 month period.

Section Eleven. Closed Records and Votes. All records of the public governmental body which are permitted to be closed records by reason of the Sunshine Law, or by any other statute of Missouri, or by any statute or regulation of the United States government shall be maintained as closed records. No such closed record shall be released to any person who is not a part of the public governmental body's staff, except that the body's auditor may see such records as are reasonably necessary to prepare an audit report as requested by the body and the body's attorney may see such records as are reasonably necessary to represent the body. Requests that closed records be opened to public inspection will be considered on a case-by-case basis by the members of the public governmental body.

Section Twelve. Subpoenas for Closed Records. No subpoena for a closed record shall be honored. All such subpoenas shall be referred to the body's attorney for a response, and for a motion to quash the subpoena. The only exception to this requirement that will be recognized is a subpoena from a grand jury.

Section Thirteen. Public Notice Board. The Custodian of Records shall establish a fixed place where all public notices and agenda will be posted. This notice board must either be located at the principal office of the body or at the building in which the meeting is to be held. Further, this location where the notice is posted must be in a place that is accessible to members of the public after hours when the district meeting is not being held and/or when the body's offices are closed, and (if possible) should be lighted. This notice board shall have the notion "PUBLIC NOTICES" printed in letters at least four inches in height at the top of said board. A window or glass door at the entrance to any office of the public governmental body may be used as the notice board, provided such notices are placed in such a fashion that they can be read by persons on the outside of the building.

Section Fourteen. Standing Requests for Meeting Notices/Packets. Although the Missouri statute does not require the body to do so, it shall maintain a list of all persons who request notice of "all meetings" of the public governmental body and its committees. Such request may include simply a request for the notice and tentative agenda, or may include a request for the preparatory packet also. A deposit may be requested to be posted in advance when such a request is made, and such request shall be honored as long as the deposit continues to cover the costs.

Section Fifteen. Meetings via Electronic Devices. Any meeting initiated by the public governmental body (except those having a purely social purpose) is presumptively public. If any member of the public governmental body must attend such meeting via electronic means (speaker phone, web camera, Internet instant messaging, etc.) the members of the public who desire to participate in such meeting will be allowed to do so at the body's offices, where the electronic communication will be shared with members of the public at the same time they are shared with members of the body.

Section Sixteen. E-mails and Electronic Records. The public governmental body recognizes that all electronic records *that belong to the body* are public records and available to the public, unless closed for a specific reason. As a general rule, any e-mails that come through any

computers owned by the public governmental body's computer system will be considered public records until overwritten by or otherwise destroyed on the hard drive of that computer. The retrieval of those e-mails, however, is not something that is routinely done by the body. Any retrieval of e-mails or other electronic records may require the services of a computer expert. Requests for the retrieval of stored e-mails or other electronic records may require the requesting party to provide an advance deposit for the services of such an expert.

If any computer owned by the public governmental body has Internet service, employees of the body and volunteers serving the district are prohibited from using the body's Internet facilities for personal purposes. E-mails which are directed (either addressed to, or by copy sent) to a majority of the members of the public governmental body are presumptively public records and will be disclosed, unless a specific reason for non-disclosure exists. Anytime a member of the body sends an e-mail to a group which would, with that member included, constitute a quorum of the body, a copy of that e-mail must also be sent to the custodian of records to be retained as a public record along with other records of the public governmental body.

[Use if applicable: E-mails which are directed (either addressed to, or by copy sent) to the mayor/superintendent/fire chief or sent by the mayor/superintendent/fire chief to others relating to district business are presumptively public records and will be disclosed, unless a specific reason for non-disclosure exists.]

E-mails which are addressed upward or downward in the chain of command, or to all personnel are presumptively public records and will be disclosed, unless a specific reason for non-disclosure exists.

All other e-mails are presumptively private, and do not belong to the public governmental body but are the property of the person who created the same. These e-mails will not be released to the public without permission of the owner thereof.

Section Seventeen. Normal Meeting Place, Time, and Date. Regular meetings of the public governmental body are held on _____ at the public governmental body's offices located at _____. Meetings begin at _____ o'clock p.m.

Section Eighteen. Meetings Initiated by Others. From time to time, members of the public

governmental body may be invited to attend meetings held by others (Chamber of Commerce, City or County government, employee groups, etc.) At such meetings government business may be discussed. The public governmental body will give notice of these invitations to the public, and we believe these meeting are generally required by law to be open to the public. However, we have no control over the facilities at which the meetings are held. If we know in advance that the meeting is to be private, the members of our public governmental body will not participate in the meeting. However, if we attend the meeting and it turns out that a member of the public is excluded and we are made aware of that event, we will at that time leave the meeting in order to avoid engaging in a purposeful violation of the sunshine law.

President

ATTEST:

Secretary