

Town of Chapel Hill - Board Training
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Open Meetings and Public Records

Quiz

Open Meetings

1. The open meetings law does not apply to advisory boards, as long as they do not have final decision-making authority and are only authorized to make recommendations.

True _____ False _____

Answer: False. The law applies to public bodies that have responsibility for a wide range of functions, including those that are solely advisory.

2. A meeting solely among the staff of a public agency is not subject to the open meetings law.

True _____ False _____

Answer: True. There is a specific provision in the law that exempts meetings solely among the staff. This exemption might not apply if a staff committee has been delegated final authority over particular types of matters. The exception is probably based on the assumption that these types of meetings are to conduct the administrative work of the agency.

3. An appointed board has created a subcommittee to develop a proposal and report back to the full board. The subcommittee has three members. One member meets another member for coffee and they discuss their ideas for how the proposal should be presented. Is this a meeting that is subject to the open meetings law?

Yes _____ No _____

Answer: Yes. A committee of a public body is itself a separate public body. Two people constitute a majority of a three-person committee so this would be an official meeting requiring notice.

4. A public body may conduct its business by email as long as the public has access to copies of the emails upon request.

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True _____ False _____

Answer: False. The policy underlying the open meetings law is that official business and deliberations of public bodies should be done openly. Members are certainly free to communicate by email, but should be careful not to conduct discussions on a basically simultaneous basis by email (which would be considered a meeting requiring notice and access), and should be aware that actions must be taken in a properly convened meeting with a quorum present.

5. A board or commission may meet in closed session to discuss applicants for appointment to that board or commission.

True _____ False _____

Answer: False. The open meetings law allows a public body to meet in closed session to discuss the performance or qualifications of an employee, but specifically prohibits meeting in closed session to consider the performance or qualifications of a member of the public body itself, or of another public body.

6. Given the rights of access and notice under the open meetings law, assess the appropriateness of each of the following suggestions for locations and formats for meetings of public boards:

- a. The homes of board members, on a rotating basis.

Answer: It would be difficult to comply with the requirements of the open meetings law in terms of providing notice and accommodating people who wish to attend. This is not recommended.

- b. Electronic meetings using video conferencing software provided that notice is given including access for public log in.

Answer: It's a bit unclear under the law whether a virtual meeting would be allowed. It is more likely that it would be possible for an appointed board than for the Town Council, since the specific requirements for quorum are subject to local policy. It would be important for there to be a local policy authorizing this process and notice and access would have to be provided. This would not be appropriate for any board that is dealing with quasi-judicial matters.

- c. A local coffee shop (assuming that few people will attend), subject to relocation to town hall if attendees exceed the space available.

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Answer: This would not be acceptable. Relocation of the meeting would require additional notice.

Public Records

1. Emails relating to the transaction of public business that are made or received on privately owned computers or using private email accounts are subject to public access under the public records law.

True _____ False _____

Answer: True. It is the content, not the location of a record that determines whether it is subject to public access.

2. Applications for appointment to local government advisory boards are public records.

True _____ False _____

Answer: True. There are exceptions in the public records law for applicants for employment, but people who serve on boards are not considered employees and are not covered by that exception. There being no other applicable exception, the records are public.

3. The home phone numbers of applicants to and members of town advisory boards may be redacted from any public records on which they appear if there is a request for access to those records.

True _____ False _____

Answer: False. Certain kinds of personal identifying information are confidential even if contained in a public record. Examples include social security numbers, bank accounts, and drivers' license numbers. Private addresses, phone numbers and email addresses are not covered by these exceptions.

4. A citizen alleges that the planning board is biased in favor of friends and relatives of board members. The citizen requests that the Town provide a list of all development

applications from friends and relatives of board members that have been approved within the past five years. Must the Town provide this list?

Yes _____ No _____

Answer: No, unless it happens to be a list that already exists as a record within the Town. The public records law does not require public agencies to create records; only to provide access to records that exist. The request would have to be reframed in terms of specific records that are requested, with clarification about the names of individuals, types of approval, and other information necessary to identify records that comply with the request.

5. State law requires all public records to be maintained for a minimum period of 3 years.

True _____ False _____

Answer: False. Public agencies are governed by specific records retention schedules promulgated by the state Department of Cultural Resources (Government Records Branch). These schedules establish retention requirement for specific categories and types of records. Records of short-term value need not be retained. (See handout).

6. A consultant hired by the Town to develop an analysis of community policing strengths and weaknesses has prepared a draft report. Since some of the recommendations may be controversial, so the consultant provides a preliminary draft to the Police Chief for review before submitting it to the Advisory Committee and the Town Council. A member of the public finds out about the report and requests a copy. Does the public have a right to a copy at this point?

Yes _____ No _____

Answer: Yes. There is no exception in the public records law for draft documents.