

 Missouri Department of Natural Resources Administrative Policies and Procedures		
Chapter 2 Communications		
Sunshine Law Requests Policy	Effective date	Revised
Number: 2.02	January 18, 2002	Sept. 2, 2009

The Department of Natural Resources will be open to media and public requests for information. To carry this out, we will comply fully with all provisions of the Sunshine Law of Missouri.

This policy is a summary of some of the provisions of Missouri’s Sunshine Law that most commonly pertain to the department. It does not contain all the details about the Sunshine Law. For complete information refer to the law or the Missouri Attorney General Office’s information on the Sunshine Law available at that office’s web site or as a booklet. If you have any questions, contact the department’s or your division’s legal counsel.

REFERENCES

Missouri Attorney General’s Office Website (Sunshine Law)
<https://ago.mo.gov/missouri-law/sunshine-law>

Missouri Sunshine Law: RSMo 610

Related DNR Policy

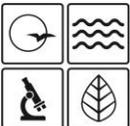
- Employee Records: 1.03
- Sunshine Law Request Procedures: 2.02-01

DEFINITIONS

Closed record: A record closed to the public as authorized by Section 610.021

Legal counsel: The department’s attorney in the Director’s Office or in various divisions.

Public record: As defined in greater detail by section 610.010 RSMo, any record, whether written or electronically stored, retained by or of any public governmental body, including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body. The term “Public Record” shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of that body, unless such records are retained by the public governmental body or presented at a public meeting.

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GENERAL PROVISIONS

Missouri’s commitment to openness in government is clearly stated in Section 610.011 of the Sunshine Law: “It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy.”

The law sets out the specific instances when a meeting, record or vote may be closed, while stressing these exceptions are to be strictly interpreted to promote the public policy of openness.

Public meetings, including meetings conducted by telephone, Internet or other electronic means, are to be held at reasonably convenient times and must be accessible to the public. Meetings should be held in facilities that are large enough to accommodate anticipated attendance by the public and accessible to persons with disabilities.

Public governmental bodies 610.010(4)

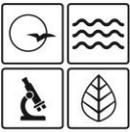
The Sunshine Law governs the actions of public governmental bodies, which are defined as legislative, administrative or other governmental entities created by the constitution or statutes of this state, or by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order.

This includes the department as well as related boards and commissions. The term “governmental body” is defined to include “quasi-public governmental bodies,” which are defined in Section 610.010(4)(f). Those entities that regularly enter into contracts with public governmental bodies or perform certain types of public functions (such as issuing tax credits) should review this definition to determine whether they must comply with the Sunshine Law.

The Missouri Sunshine Law governs only state, local and quasi-public governmental bodies. Federal officers and agencies are covered by the federal [Freedom of Information Act](#).

Sunshine policy 610.028

Each public governmental body shall provide a reasonable written policy consistent with the Sunshine Law and open to the public regarding access to public records and meetings.

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Meeting notices 610.020

At least 24 hours (excluding weekends and holidays) before a public meeting, the public body must prominently post a notice of the meeting in its principal office. If there is no such office, the public body should post the notice at the meeting place. The notice must include:

- Time of meeting
- Date of meeting
- Place of meeting
- Tentative agenda of an open meeting and
- Whether the meeting is open or closed, and the reason for any closed meeting

If the public body intends to hold a meeting by conference call or other electronic means, the notice must specify the location where the public may observe and attend that meeting. If the public body meets via Internet or other computer link, it shall post a notice on its Web site in addition to posting the notice at its principal office.

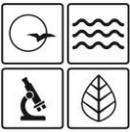
If exceptional circumstances prevent the public body from posting notice 24 hours in advance or prevent the meeting from being held at a convenient time or in a place reasonably accessible to the public, the reasons must be stated in the meeting's minutes.

Public records 610.010, 610.023, 610.024, 610.026

Unless otherwise provided by law, records of a public governmental body are to be open and available to the public for inspection and copying. The governmental body may charge up to 10 cents per page for copies not larger than nine by fourteen inches and the actual cost of the copy for larger or specialized documents (such as maps, photos and graphics). The body also may charge a reasonable fee for the time necessary to search for and copy public records. Research time may be charged at the actual cost incurred to locate the requested records, as well as to review the records for responsiveness and exemptions. Copying time shall not exceed the average hourly rate of pay for clerical staff of the public body. A public body may reduce or waive costs when it determines the request is made in the public interest and is not made for commercial purposes.

The term "public record" includes records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body.

Each public governmental body must appoint a custodian of records. The Sunshine Law requires that each request for access to a public record be acted on no later than the end of

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the third business day following the date the request is received by the custodian. If access is denied, the custodian must explain in writing and must include why access is denied, including the statute that authorizes the denial.

If only part of a record may be closed, the rest of the record must be made available.

The law also requires that if a request is made in a particular format, the custodian shall provide the records in that format if it is available.

E-mails among members of public bodies 610.025

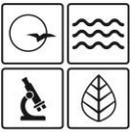
If a member of a public body transmits an e-mail relating to public business to at least two other members of the body so that, when counting the sender, a majority of members are copied, a copy of the e-mail shall be sent to either the custodian of records, or the member’s public office computer. Any such message, subject to the exceptions of Section 610.021, shall be considered a public record upon receipt by the custodian or at the public member’s computer.

Closed meetings and records 610.021, 610.022

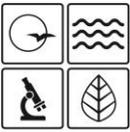
All records closed under the provisions provided in 610.021 RSMo are confidential and closed unless otherwise specifically determined to be open by the department director.

A public governmental body is permitted, but is generally not required, to close its meetings, records and votes when they relate to certain issues listed in Section 610.021 (except that social security numbers must not be disclosed). When a public body relies on one of these exceptions to close a meeting or record, it should bear in mind that the exceptions are to be read narrowly under Section 610.011. Matters that may lead to close a meeting or record include:

- Documents related to legal actions, causes of action, litigation and attorney-client privileged communications (including the department’s attorneys and the Missouri Attorney General’s Office attorneys). However, any meetings, votes, or settlement agreement relating to legal actions involving the department or its agents shall be made public upon final disposition of the matter voted upon or upon the signing of the parties of the settlement agreement, unless ordered closed by a court;
- Leasing, purchase or sale of real estate by the department where public knowledge of the transaction might adversely affect legal considerations in said transaction;
- Hiring, terminating, disciplining, or promoting of a particular employee;
- Matters involving state militia or National Guard;

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- Non-judicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, physiological, or alcoholism or drug dependency diagnosis or treatment;
- Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual tests or examination scores;
- Testing and examination materials before the test or examination is given;
- Welfare cases of identifiable individuals;
- Preparation, including any discussions or work product, for negotiation with employee groups;
- Software codes for electronic data processing or documentation;
- Specifications for competitive bidding, until either the specifications are officially approved or the specifications are published for bid;
- Sealed bids and related documents, until the bids are opened, and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed or all proposals are rejected.
- Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment;
- Meetings and public records relating to scientific and/or technological innovations in which the owner has a proprietary interest;
- Records related to municipal hotlines established for the reporting of abuse and wrongdoing;
- Confidential or privileged communications with an auditor, including all auditor work product; however, all final audit reports issued by an auditor are open;
- Operational guidelines and policies developed, adopted, or maintained for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature or has the potential to endanger individual or public safety or health;
- Existing or proposed security systems and structural plans of real property owned or leased;
- Records that identify the configuration of components or an operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or disruption to a computer, computer system, computer network, or telecommunications network;
- Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security

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of electronic transactions between the department and a person or entity doing business with the department;

- Certain investigative reports used in the course of a criminal investigation;
- Social security numbers (Chapter 610.035, RSMo);
- Criminal history information, such as that provided through Missouri Uniform Law Enforcement System (MULES); and
- Records which are protected from disclosure by law;

When a public governmental body votes to meet in closed session, members must cite in open session the specific statute and subsection allowing closure. Once in closed session, the public body may not discuss any matter beyond the scope of the stated reason for the closed session. The public governmental body must close only that portion of the facility necessary for its members to conduct the closed meeting, allowing space for the public to remain and attend any later open session.

Who can bring legal action 610.027

Any Missouri taxpayer, citizen or aggrieved person, the Attorney General, or the county prosecutor may bring a court action to enforce the Sunshine Law. The lawsuit must be filed in the circuit court in the county where the public governmental body has its principal place of business. A lawsuit must be filed within one year from when the violation is ascertainable, and in no event shall it be brought later than two years after the violation occurred.

Penalties 610.027

If the court finds a public governmental body has violated the Sunshine Law, it may declare void any action taken in violation of the law. If the court finds, by a preponderance of evidence, that the public body or a member of the public body has knowingly violated the Sunshine Law, the court:

- shall subject the member or body to a civil penalty of up to \$1,000; and
- may order the member or body to pay all costs and reasonable attorney fees to any party successfully establishing a violation.

If the court finds, by a preponderance of evidence, that the public body or member has purposely violated the Sunshine Law, the court shall:

- subject the member or body to a civil penalty of up to \$5,000; and
- order the member or body to pay all court costs and reasonable attorney fees.

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In addition, the court shall void an action taken in closed session if it determines that the public interest in enforcing openness outweighs the interest in sustaining the action.

If a public governmental body has any doubt about the legality of closing a particular meeting, record or vote, it may bring suit in the circuit court to determine whether the action is proper or it may seek a formal opinion from its own attorney or from the Attorney General.

Law enforcement records 610.100-610.200

Law enforcement records are subject to separate provisions of the Sunshine Law. The law now provides, however, that law enforcement records are subject to the same presumption of openness that applies to other public records (Section 610.011).