

Open Meetings, Records Retention, and Public Records Training

**For Members of Boards, Councils, and Commissions
Attached to the Wisconsin Department of Children and Families**

Mary Burke, Deputy General Counsel

2022



Wisconsin Department of
Children and Families

Transparency Laws Applicable to BCCs

- The Wisconsin Open Meetings Law
Wis. Stat. §§ 19.81 – 19.98
- The Wisconsin Records Retention Law
Wis. Stat. § 16.61
- The Wisconsin Public Records Law
Wis. Stat. §§ 19.31 – 19.39



Today's Presentation

- You received an outline last year with information about each law.
- Today I'll review some highlights and key points.
- I'll try to leave a few minutes for questions at the end.
- If we don't get to your question, or you have questions later, just send them to the DCF Office of Legal Counsel. We'll follow up with you. If it seems like something that would be of interest to the whole BCC, we'll share the information with everyone.



Open Meetings Law

- Intended to shed light on the workings of state government.
- Requires that all meetings of governmental bodies be publicly held in places reasonably accessible to members of the public and open to all citizens at all times unless otherwise provided by law.



What's a Meeting?

- A convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body.
- Two requirements to be a meeting:
 - Purpose Requirement – gathered to conduct governmental business – informal or formal action, including just hearing information on a matter within the realm of authority
 - Numbers Requirement – a number sufficient to determine the body's course of action



Open Meetings Law – Key Points 1

- Members do not have to be simultaneously gathered in the same place at the same time
 - A virtual meeting (Zoom, Teams, etc.)
 - A conference call
 - A walking quorum – successive group discussions of sizes less than a quorum who agree to act uniformly in a sufficient number to reach a quorum
- Not problematic if required notice is given and other requirements are followed



Open Meetings Law – Key Points 2

- Be careful of mail or electronic communications chains
 - Can start with an external or internal email, perhaps from a stakeholder, to one or more members of the governmental body
 - Others then comment or discuss
 - Or forward to others, who then comment or discuss
 - If you receive one, don't respond or share with other members
 - Instead forward to your BCC staff contact, who can add to next meeting agenda or set up a special meeting



Records Retention Law

- Related to the Public Records Law, but they have different purposes
- Records Retention Law – preserve certain records
- Public Records Law – provides access to records that exist at the time a request is made



Records Retention Law – Key Points

- Materials you receive from BCC or DCF staff about BCC business are not public records subject to retention; BCC or DCF staff keeps the official public record
- Your personal notes are not public records
- Correspondence with others probably is a public record
- Contact DCF OLC if you have questions or need guidance



Public Records Law

- Intended to shed light on the workings of state government.
- The public records law, *“shall be construed in every instance with a presumption of complete public access, consistent with the conduct of government business.”* Wis. Stat. § 19.31.



Public Records Law – Key Points 1

- Records on personal devices or accounts are subject to release, but not other information on those devices or accounts
- Special words don't have to be used
- Written requests are not required



Public Records Law – Key Points 2

- If you receive something that might be a public records request, forward immediately to DCF staff contact and DCF OLC
- OLC will evaluate the request and provide directions
- All potentially responsive records must be retained once a request is received



Public Records Law – Key Points 3

- Not grounds for non-disclosure if something is embarrassing or contains negative information
 - Use professional judgment regarding what you put in writing related to the BCC
 - Email is not the place to vent
 - How would you, or someone else, feel about seeing the content in the newspaper or posted on a media site?



Additional Resources

- Enterprise Public Records Training – Invitation forthcoming
- Wisconsin Department of Justice Open Meetings and Public Records Compliance Guides, available free of charge at <https://www.doj.state.wi.us/office-open-government/office-open-government>
- Contact DCF Office of Legal Counsel at 608-422-7038 or DCFCalLegal@wisconsin.gov
- Contact Mary Burke at 608-422-7039 or mary.burke@wisconsin.gov

