



Colorado Sunshine Law (Open Meetings) & Colorado Open Records Act (CORA) Overview

January 2023



The Open Meetings Law

- Legislative Declaration – It is declared to be a matter of statewide concern and the policy of this state that the formation of public policy is public business and may not be conducted in secret. - C.R.S. § 24-6-401
- Generally requires any state or local governmental body to discuss public business or to take formal action in meetings that are open to the public and to provide notice of those meetings.
- “Local governmental body” is any board, commission, or other advisory, policy or rule-making body of a political subdivision of the state; and any entity that has been delegated a governmental decision-making function.



The Open Meetings Law

- A "meeting" refers to any kind of gathering, convened to discuss public business, whether in person, by telephone, electronically, or by other means of communication.
- Emails can be considered "meetings", but the term does not include chance meetings or social occasions where public business is not the central purpose of the meeting.
- Email communications that do not relate to the merits or substance of public business is also not considered a meeting.

Local Body

Members Present

Three or more members of the body (or two members if two constitutes a quorum) conducting business are subject to this law.

Notice

The statute requires full and timely notice, posted in its designated place, and in addition to any other means of full and timely notice, a local body is in compliance with the notice requirements if notice is posted at least 24 hours prior to the meeting on the local body's public website.

Minutes

Minutes of meetings must be taken and promptly recorded and are open to public inspection.

Executive Sessions

Requires announcement of topic for discussion, citation to authorizing law, identification of particular matter to be discussed, and a two-thirds vote of the quorum present. In general, discussions held in an executive session must be electronically recorded, but there are a few specific exceptions.



Quorum (or 3+) Board Members
+ Formal Action or Discussion of Formal
Business

OPEN MEETING



Executive Sessions

- Topics for Executive Session:
 - The purchase, acquisition, lease, transfer, or sale of any property interest
 - Conferences with an attorney for the purpose of receiving legal advise on specific legal questions – Mere presence is not sufficient
 - Matters required to be kept confidential by federal or state law/reg
 - Details of security arrangements or investigations
 - Determining positions relative to negotiations
 - Personnel matters except if the employee(s) who is the subject of the session has requested an open meeting
 - Consideration of any documents protected by the mandatory nondisclosure provisions of the “Colorado Open Records Act”
- No adoption of any proposed policy, position, resolution, rule, regulation, or formal action, except the review, approval, and amendment of the minutes of an executive session...shall occur at any executive session that is not open to the public.

Colorado Open Records Act (CORA)



Colorado Open Records Act (CORA)

- Legislative Declaration – It is declared to be the public policy of this state that all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law. – C.R.S. § 24-72-201



Colorado Open Records Act (CORA)

- Requires government records custodians to allow for inspection of public records. Does not require the creation of public records.
- Defines terms, e.g. custodian, public record, work products, etc.
- Lists multiple categories of records for which the right of inspection can or must be denied.
- Sets response time frames and caps on cost recoveries for making public records available
- Requires specific notice to requesters in certain circumstances
- Includes appeal rights and allows for or mandates attorneys fees.



What is a Public Record?

- “all writings made, maintained, or kept. . . for use in the exercise of functions required or authorized by law . . . or involving the receipt or expenditure of public funds.”
- This includes digitally stored information and communications.
- No requirements to create a public record.



What is NOT Public Record?

- Criminal Justice Records
- Work product prepared for Elected Officials
- Personnel files (home address, telephone number, financial information, and other information kept because of the employment relationship)
- Copyright and/or trade secrets
- Security plans, incident reports, and audit and assessment reports.
- *These excluded materials do not have to be disclosed.*



Requests and Responses

- All public records shall be open for inspection by any person at reasonable times
- The custodian of records may make rules regarding record inspections to prevent unnecessary interference with regular work (e.g. how requests will be processed, document retention, destruction, etc.)
- If other custodian has record, let requester know
- Response required within 3 business days of receipt absent extenuating circumstances (e.g. large volume, records off site, etc.)



Exemptions from Disclosure

Shall Deny Inspection of Any Record When:

- Contrary to federal or state statute or regulation
- Prohibited by rules promulgated by the Colorado Supreme Court or by order of any court
- Contrary to the requirements of any joint rule of the senate and the house of representatives pertaining to lobbying practices



Exemptions from Disclosure

May Deny Inspection of Any Record When:

- Investigations conducted by law enforcement entities
- Specific details of bona fide research projects
- Email addresses of persons who provided the address for purposes of future electronic communications from the agency
- Substantial injury to the public interest
- Ongoing civil or administrative investigations
 - Doesn't apply to internal investigations into personnel
 - Once closed, unless another statute/rule protects the info, is public
 - Can redact personal identifying or financial info of witnesses or targets



Exemptions from Disclosure

Shall Deny Inspection Unless Requested by the Person in Interest:

- Medical, mental health, sociological, scholastic achievement data, and electronic health records of individual persons
- Personnel files
- Letters of reference
- Trade secrets, privileged info, and confidential commercial, financial, geological, or geophysical data, including SSN
- Records of sexual harassment complaints and investigations
- Records submitted for an applicant for an executive position
- Deliberative process privileged records
- Address info of individuals who request their records remain confidential as they have reason to believe that the individual, or a member of the individual's family residing at that address will be exposed to criminal harassment if not kept confidential



Exception to Disclosure

Request to Remove Online Personal Information

- Certain protected individuals, including public health workers, may submit a written request to a state or local government to remove personal information available online.
- The state or local government who receives such request shall not knowingly make individual's personal information available online.
- Personal information - home address; personal home, cell, or pager number; personal email address; personal photograph; directions to the persons home; or photographs of the home or vehicle of the person.



Adams County's CORA and Record Retention Policies

- Adams County's CORA Policy
- County's Record Request Form
 - Many records are available online
- County's Records Retention Schedule
 - Provides guidance on how long to keep County records
 - Destruction of records happens according to retention schedule
- If we have a record, it must be disclosed as appropriate.



Summary

- Create only those records that are needed for your business purposes
- Maintain records for only as long as the Retention Schedule requires
- Pick up the phone rather than send an email
- Stay organized – sorting through unorganized piles of documents or a crazy inbox is not a good use of your time
- Consult your lawyer when you have questions



ADAMS COUNTY
COLORADO

Questions??