

RESOLUTION No. - -

**RESOLUTION OF THE KANSAS CITY CHAPTER 353 ADVISORY BOARD  
ADOPTING AN OPEN MEETINGS AND PUBLIC RECORDS POLICY, WITH A  
RETROACTIVE EFFECTIVE DATE, AND AUTHORIZING FURTHER ACTION  
RELATED THERETO.**

**WHEREAS**, the Kansas City Chapter 353 Advisory Board (Advisory Board) was established by the City of Kansas City, Missouri (City), under Committee Substitute for Ordinance No. 140306 (Urban Redevelopment Ordinance), passed on May 1, 2014, which Urban Redevelopment Ordinance is codified at Sections 74-1 through 74-10, Chapter 74, Code of Ordinances;

**WHEREAS**, the Advisory Board has created or caused to be created an Open Meetings and Public Records policy whose purpose is to address the Missouri Sunshine Law, Chapter 610, RSMo, and its effect on (1) public access to the Advisory Board's records, and (2) the Advisory Board's meetings;

**WHEREAS**, the Advisory Board is also subject to the State and Local Records Law, Chapter 109, RSMo, governing local records management, retention and destruction.

**NOW, THEREFORE, BE IT RESOLVED** by the Kansas City Chapter 353 Advisory Board as follows:

1. The Advisory Board hereby approves and adopts the Open Meetings and Public Records Policy, attached to this Resolution as Exhibit A.
2. The Chairman and Executive Director are authorized and directed to take all further action necessary to carry out the intent of this Resolution.
3. This Resolution shall take effect immediately and shall be retroactive to May 1, 2014, the date the City established the Advisory Board.

ADOPTED this \_\_\_\_ day of October, 2018.

KANSAS CITY CHAPTER 353 ADVISORY BOARD

By: \_\_\_\_\_  
Steven Hamilton, Chairman

ATTEST:

\_\_\_\_\_  
Greg Flisram, Executive Director/Secretary

## EXHIBIT A

### KANSAS CITY CHAPTER 353 ADVISORY BOARD

#### OPEN MEETINGS AND PUBLIC RECORDS POLICY

**Adopted** October 24, 2018

**Resolution No.** \_\_\_\_ - \_\_\_\_ - \_\_\_\_

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The Kansas City Chapter 353 Advisory Board (Advisory Board) intends to comply with the Missouri Sunshine Law, Sections 610.010 through 610.035, RSMo, as amended, and to ensure such compliance, and as required by Section 610.028(2), has adopted the following policies and procedures:

#### 1. **Definitions**

- 1.1. **Record.** “Record” is not defined under the Sunshine Law; however, “record” is defined in the State and Local Records Law, Sections 109.200 through 109.310, RSMo. Advisory Board is subject to the State and Local Records Law. Pursuant to Section 109.210(5) of the State and Local Records Law, a “record” is any “document, book, paper, photograph, map, sound recording, or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with a transaction of official business.” While this definition is not controlling for Sunshine Law purposes, it does provide useful statutory guidance.
- 1.2. **Closed Meeting, Closed Record, Closed Vote.** Any meeting, record or vote closed to the public.
- 1.3. **Sunshine Law.** Section 610.010 to 610.035, RSMo, as amended, governing meetings of public governmental bodies including the Advisory Board and its Members, as now or hereafter amended.
- 1.4. **Public Business.** All matters which relate in any way to the performance of the Advisory Board’s functions or the conduct of its business.
- 1.5. **Public Meeting.** Any Advisory Board meeting at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, Internet chat, or Internet message board; however, “public meeting” shall not include informal gatherings of Members of the Advisory Board for social or ministerial purposes, but shall include a public vote of all or a majority of Members of the Advisory Board by electronic communication or other means, conducted in lieu of holding a public meeting with the Members of the Advisory Board gathered at one location in order to conduct public business.
- 1.6. **Public Record.** Any record, whether written or electronically stored, retained by or of the Advisory Board, including any report, survey, memorandum or other document or study prepared for the Advisory Board by a consultant or other professional service provider paid for in whole or in part by public funds, including records created or

maintained by private contractors under an agreement with the Advisory Board or on behalf of the Advisory Board; provided, however that “public record” shall not include any internal memorandum or letter received or prepared by or on behalf of a Member of the Advisory Board consisting of advice, opinions, and recommendations in connection with the deliberative decision making process of the Advisory Board, unless such records are retained by the Advisory Board or presented at a public meeting. Any document or study prepared for the Advisory Board by a consultant or other professional service provider as described in this subsection shall be retained by the Advisory Board in the same manner as any other Public Record.

1.7. **Public Vote.** Any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of the Advisory Board.

1.8. **Board Members.** The Members of the Advisory Board as appointed by the Mayor of the City of Kansas City, Missouri.

## 2. **Notice of Public Meetings**

2.1. Notice shall be given of the time, date, place of meeting and anticipated agenda for all Public Meetings at least twenty-four (24) hours in advance of any Public Meeting through the posting of such notice on a bulletin board located in a public area in the principal office of the Advisory Board.

2.2. If a Public Meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If the Members intend to meet by Internet chat, Internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting.

2.3. If it is anticipated that all or a portion of a Public Meeting of the Advisory Board Members is to be closed, the notice for the meeting shall set forth the reason for its closure by reference to the specific exception allowed pursuant to the provisions of Section 610.021, RSMo (See Section 7 below).

2.4. Copies of the meeting notice shall be made available at the same time notice is given to the Members to all members of the media who have submitted a request to the Administrative Assistant to the Advisory Board Executive Director.

2.5. The twenty-four (24) hour notice period shall not include weekends and holidays when the Advisory Board offices are closed.

2.6. A Public Meeting may be held with less than twenty-four (24) hours’ notice if there is good cause to render such notice impossible or impractical.

2.6.1. If such good cause exists, as much notice as is reasonably possible shall be given.

2.6.2. Following the opening of the Public Meeting, the nature of the cause justifying the departure from the normal requirements shall be stated in the minutes.

2.7. If another provision of law requires a manner of giving specific notice for a meeting, hearing or intent to take action by the Advisory Board, compliance with that section shall constitute compliance with the requirements of this policy.

### **3. Location of Public Meetings**

3.1. Public Meetings shall be held at the Board Room of the Economic Development Corporation located at 1000 Walnut, Suite 1700, Kansas City, Missouri, unless otherwise specified in the notice.

3.2. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate attendance by members of the public.

3.3. Where it is necessary to hold a Public Meeting in a location that is not reasonably accessible to the public, the reason for the selection of the meeting location shall be stated in the minutes at the opening of the meeting.

3.4. At any Public Meeting conducted by telephone or other electronic means, the meeting notice shall designate a location at which the public may meet and observe and/or attend the meeting.

### **4. Minutes of Public Meetings**

4.1. The minutes of all Public Meetings and Closed Meetings shall be taken and maintained by the Executive Director of the Advisory Board, or by a person designated by the Executive Director of the Advisory Board.

4.2. The minutes shall include, at a minimum, the date, time, place, Members present, Members absent, and a record of any votes taken.

4.3. If a roll call vote is taken, the minutes shall indicate the vote of each Advisory Board Member as “yea,” “nay,” or abstaining, if not voting. Because the Advisory Board Members are appointed by the Mayor and not elected, the provisions of Section 610.015, RSMo relating to roll call votes by members of governmental bodies whose members are elected are not applicable.

### **5. Recording of Proceedings at Public Meetings**

5.1. The Advisory Board shall allow for the recording by audiotape, videotape, or other electronic means of any open Public Meeting and may establish guidelines regarding the manner in which such recording is conducted to as to minimize disruption to the meeting. No audio recording of any meeting, record or vote closed pursuant to the provisions of Section 610.021, RSMo, shall be permitted without the permission of the Advisory Board; any person who violates this provision shall be guilty of a class C misdemeanor.

- 5.2. Public Meetings may be recorded electronically or otherwise by members of the public at that individual's or group's expense. In those instances where an audio recording of a Public Meeting is made by the Advisory Board, the Advisory Board will make copies of its audio recordings available upon written request to the Custodian at a price established by the Advisory Board. (See Section 9.11.2 below)
- 5.3. Any recording devices, electronic or otherwise, shall be placed in the public meeting room in a location(s) that are unobtrusive and do not disturb the Public Meeting.
- 5.4. Any person or group seeking to record a Public Meeting with equipment that requires set-up, connection or specific placement of recording devices shall notify the Administrative Assistant to the Advisory Board Executive Director prior to the start of the meeting of the intent to record and he or she shall provide instructions regarding the placement and use of such equipment.
- 5.5. Members of the public who wish to record Public Meetings must use the most unobtrusive recording method and equipment available to meet specific recording needs.

## **6. Closed Meetings**

- 6.1. A Closed Meeting, portion of a meeting, or vote may be held for different reasons under the Sunshine Law including, but not limited to the following reasons, citing the applicable sections:
  - 6.1.1. Legal actions, causes of action or litigation involving the Advisory Board and any confidential or privileged communications between the Advisory Board or its representatives and its attorneys (610.021(1), RSMo);
  - 6.1.2. Leasing, purchase or sale of real estate by the Advisory Board where public knowledge of the transaction might adversely affect the legal consideration therefor (610.021(2), RSMo);
  - 6.1.3. Hiring, firing, disciplining or promoting of particular employees by the Advisory Board when information relating to an employee's performance or merit is discussed or recorded (610.021(3), RSMo);
  - 6.1.4. Preparation, including any discussions or work product, on behalf of the Advisory Board or its representatives for negotiations with employee groups (610.021(9), RSMo);
  - 6.1.5. Software codes for electronic data processing and documentation thereof (610.021(10), RSMo);
  - 6.1.6. Specifications for competitive bidding, until either the specifications are officially approved by the Advisory Board or are published for bid (610.021(11), RSMo);

- 6.1.7. 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 (610.021(12), RSMo);
  - 6.1.8. Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment (610.021(13), RSMo);
  - 6.1.9. Records which are protected from disclosure by law (610.021(14), RSMo);
  - 6.1.10. Meetings and public records relating to scientific and technological innovations in which the owner has proprietary interest (610.021(15), RSMo); and
  - 6.1.11. Confidential or privileged communications between the Advisory Board and its auditor, including all auditor work product (610.021(17), RSMo).
- 6.2. Members of the public shall be allowed to remain at a designated area on-site but outside of the room in which a Closed Meeting, closed portion of a Public Meeting, or Closed Vote is conducted, so as to allow members of the public to attend any subsequent portion of the Public Meeting which is not closed.

## **7. Notice of Closed Meetings & Vote Required**

- 7.1. A Closed Meeting, closed portion of a meeting or Closed Vote may be held if proper notice is given. In addition to the notice requirements found in Section 2 above, the notice shall set forth the reason for closing the meeting, portion of the meeting or vote, with references to the specific section and subsection of the Sunshine Law allowing such action.
- 7.2. Prior to closing a Public Meeting, a portion of a Public Meeting or a vote, the Chairman, Vice Chairman or other presiding Member shall state for and include in the minutes of the Public Meeting, the specific section and subsection of the Sunshine Law upon which the decision to close the meeting, portion of the meeting or vote is based.
- 7.3. A Public Meeting or a vote may be closed to the public for any of the reasons enumerated in Section 6.1, if proper notice has been given, except as provided in Section 7.5. Upon a roll call vote, a majority of the quorum present must vote in favor of a motion to close the meeting or vote, before such a meeting or vote is closed. The vote of each Member on the question or closing a Public Meeting or vote and the specific reason for closing that Public Meeting or vote by reference to a specific section and subsection of the Sunshine Law shall be announced publicly at the Public Meeting and entered into the minutes of the Public Meeting.
- 7.4. Public Meetings shall be closed only to the extent necessary for the specific reason announced to justify the Closed Meeting, closed portion of a meeting, or Closed Vote. During the Closed Meeting or Closed Vote, the Members shall not discuss business

unrelated to the reason announced to justify closing the meeting, portion of a meeting, or vote.

- 7.5. A Closed Meeting, closed portion of a Public Meeting or Closed Vote may be held with less than the required notice if there is good cause to render such notice impossible or impractical, in which case Advisory Board will give as much notice as is reasonably possible prior to closing the meeting or vote. The nature of the cause justifying the departure from the normal requirements shall be stated and included in the minutes of the Public Meeting.

## **8. Minutes of Closed Meetings**

- 8.1. The minutes of all Closed Meetings, closed portions of Public Meetings, and Closed Votes shall be taken and maintained by the Executive Director of the Advisory Board or a person designated by the Executive Director of the Advisory Board.
- 8.2. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. Any Closed Votes shall be taken by roll call and the minutes shall indicate the vote of each Advisory Board Member as yea, nay or abstaining if not voting.

## **9. Public Records**

- 9.1. The Executive Director of the Advisory Board is appointed Advisory Board Public Record Custodian (“Custodian”) and is responsible for maintenance of Advisory Board Records. The Executive Director may delegate this duty to an Assistant Secretary or any other person.
- 9.2. The Advisory Board expects to permit review of Public Records during normal business hours; provided that the Custodian is available to assist with the review.
- 9.3. Requests for access to the Public Records shall be made to the Custodian.
  - 9.3.1. Requests may be made verbally (in person or by telephone) but preferably in writing (by mail or electronically). The more specific the request is, the more expeditiously records can be made available.
  - 9.3.2. A request is necessary to ensure that the Custodian will be available to assist the person making the request in locating Public Records. A member of the public who appears at the Advisory Board offices without having made a request for access may be asked to return at such time as the Custodian is available to assist with the request. Such a return appointment will be within the time periods mandated by the Sunshine Law.
  - 9.3.3. The Custodian shall provide the Public Records in the requested format, if such format is available.
- 9.4. The Custodian shall be responsible for the following:

- 9.4.1. Accompanying the person(s) making the Public Records request to the Public Records.
  - 9.4.2. Assisting the person(s) making the Public Records request in reproducing Public Records.
  - 9.4.3. Keeping a record of the name, address and phone number of the person(s) making a record request and a corresponding log of the documents copies or otherwise obtained by such person(s).
- 9.5. If, for reasonable cause, by the end of the third (3rd) business day following the day of the Custodian's receipt of the request for access to those Public Records (*i.e.*, day of receipt plus 3 days), access is not made available, the Custodian shall provide a written explanation of the cause of the delay and the place, time and date that the Public Records will be available for inspection.
- 9.6. If a request for access to any Public Record of the Advisory Board is denied, the person seeking access may request a written statement of the grounds for denial. This shall be provided as required by Section 9.5, above. The written statement shall cite to the specific provisions of the Sunshine Law under which the access has been denied.
- 9.7. If a person who has been provided access to the Public Records is unable to find a specific document, that person may make a written request for the document, including the title, publication or approval date, and other relevant information, to the Custodian, who will make reasonable efforts to determine whether the document was part of the Public Record and whether the document can be located and access provided.
- 9.7.1. The Custodian shall not otherwise be responsible for providing access to any Advisory Board Records other than to the Advisory Board's Public Records.
  - 9.7.2. The Custodian's duties under this policy extend only to providing access to the Public Records of the Advisory Board; the Custodian's duties shall not include any obligation to respond to discovery requests related to pending litigation, and the Custodian shall forward such requests to Advisory Board counsel for review.
- 9.8. Public Records may be inspected on site or copied in accordance with this Advisory Board Policy and its implementing procedures.
- 9.8.1. The Custodian or other staff member of Advisory Board shall make copies of any Public Records requested to be copied at the Advisory Board's offices when such request is for less than 100 copies.
  - 9.8.2. The Custodian shall make arrangements for copies of more than 100 pages or of any specialty requests (maps, computer discs, electronic recording media), which reproduction shall be completed as quickly as is reasonably possible.

9.9. No person shall remove original Public Records from the Advisory Board without the prior written permission of the Custodian.

9.10. If an Advisory Board file contains Public Records as well as Closed Records, the Public Records and Closed Records shall be separated and the Public Records made available for examination and copying. Advisory Board files shall be organized, to the extent practicable, to facilitate a separation of Public Records from Closed Records.

9.11. Fees.

9.11.1. Fees for copying Public Records shall be established by the Advisory Board, but shall not exceed ten cents (\$0.10) per page for a paper copy not larger than nine by fourteen inches (9" x 14"), with the hourly fee for duplicating time not to exceed the hourly rate of pay of the Custodian. Fees for research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the requests, the Advisory Board shall produce the copies using employees of the Custodian that result in the lowest amount of charges for search, research and duplication time. Prior to producing copies of the requested copies, the person requesting the records may request that the Advisory Board provide an estimate of the cost to the person requesting the records.

9.11.2. Fees for providing access to Public Records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches (9" x 14") shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for the Custodian, required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such items. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

9.11.3. The Advisory Board may request the payment of copying fees prior to the making of copies.

## **10. Classification of Records**

10.1. Records which may always be closed to the public pursuant to the Sunshine Law with the applicable statutory reference, include:

10.1.1. Legal work product (610.021(1) RSMo);

10.1.2. Minutes of closed meetings regarding the hiring, firing, discipline or promotion of an employee of the Advisory Board (610.021(3) RSMo) (however, any vote taken must be made public within 72 hours of such vote);

- 10.1.3. Any Records pertaining to the state militia or National Guard (610.021(4) RSMo);
- 10.1.4. Any Record concerning non-judicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, alcoholism or drug dependency diagnosis or treatment (610.021(5) RSMo);
- 10.1.5. Any Record relating to scholastic probation, expulsion or graduation of an identifiable individual including records of that individual's test scores (610.021(6) RSMo);
- 10.1.6. Any Record relating to testing and examination materials prior to the exam being given (610.021(7) RSMo);
- 10.1.7. Any Record relating to welfare cases of identifiable individuals (610.021(8) RSMo);
- 10.1.8. Any Record relating to the preparation, including discussions or work product, on behalf of the Advisory Board or its representatives for negotiations with employee groups (610.021(9) RSMo);
- 10.1.9. Any Record relating to software codes for electronic data processing and documentation thereof (610.021(10) RSMo);
- 10.1.10. Any individually identifiable personnel Record, performance rating or Record pertaining to an employee or applicant for employment (610.021(13) RSMo) (however, this exemption shall not apply to names, positions, salaries and lengths of service of officers and employees a person is employed);
- 10.1.11. Any Record which is protected from disclosure by law (610.021(14) RSMo);
- 10.1.12. Any Record, with the exception of a record of a Closed Vote, relating to scientific and technological innovations in which the owner has a propriety interest (610.021(15) RSMo);
- 10.1.13. Any Record relating to municipal hotlines established for the reporting of abuse and wrongdoing (610.021(16) RSMo);
- 10.1.14. Any Record of a confidential or privileged communication between the Advisory Board and its auditor, including all auditor work product (610.021(17) RSMo) (however, this exemption shall not apply to final audit reports);
- 10.1.15. Any operational guideline or policy of Advisory Board for law enforcement, public safety, first response or public health for use in any critical incident which is or appears to be terrorist in nature, and which has the potential to endanger individual or public safety or health (610.021(18), RSMo) (this exception is scheduled to December 31, 2008);

10.1.16. Any existing or proposed security system and structural plan of real property owned or leased by Advisory Board or information voluntarily submitted by a non-public entity, which owns or operates an infrastructure, to Advisory Board for use by Advisory Board to devise plans for protection of that infrastructure (610.021(19), RSMo) (this exception is scheduled to December 31, 2008); and

10.1.17. Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of Advisory Board (610.021(20), RSMo).

10.2. The following Closed Records must be made available to the public as provided by the Sunshine Law and as described below:

10.2.1. Minutes, votes and settlement agreements regarding legal actions or litigation must be made public upon the final disposition or upon the signing of a settlement agreement unless ordered closed by a court (610.021(1) RSMo) but even if a court orders a settlement agreement closed, the amount of any money paid by or on behalf of the Advisory Board must be disclosed;

10.2.2. Any vote involving the exercise of the power of eminent domain shall become public or be announced immediately following the action on the motion to authorize the institution of such legal action (610.021(1) RSMo);

10.2.3. Any information regarding the lease, purchase or sale of real estate where public knowledge might adversely affect legal consideration for the real estate may be closed, but the minutes, votes and records regarding these actions shall be made public upon execution of the lease, purchase or sale contract for the real estate (610.021(2) RSMo);

10.2.4. Any final vote regarding the hiring, firing, promotion or discipline of an employee shall be made available with a record of each member's vote within 72 hours of the vote provided that the affected employee is entitled to prompt notice within that 72 hour period (610.021(3) RSMo);

10.2.5. Specifications for competitive bidding until the specifications are officially approved or published for bid may be closed, but once the specifications are officially approved or published for bid, they must be opened (610.021(11) RSMo);

10.2.6. Sealed bids and related documents may be closed until they are opened by the Advisory Board. Sealed proposals and related documents or any documents related to a negotiated contract may be closed until the contract is executed or all proposals are rejected (610.021(12) RSMo);

10.2.7. Final audit reports issued by Advisory Board's auditor (610.021(17), RSMo);

- 10.2.8. Records related to the procurement of or expenditures for: (i) implementation of any guideline or policy under 610.021(18), RSMo; (ii) security systems and structural plans of real property owned or leased by Advisory Board under 610.021(19), RSMo; or (iii) computer or telecommunications equipment under 610.021(20);
- 10.2.9. Any messages relating to public business transmitted by a Member by electronic means to two (2) or more Members so that, when counting the sending Member, a majority of the Members are copied. Such messages must be concurrently transmitted to the Custodian. Any such message received by the Custodian shall be a Public Record, subject to the exceptions in Section 610.021, RSMo, and this policy (610.025, RSMo); and
- 10.2.10. Any record created by or retained by a consultant or other professional service provider under an agreement with Advisory Board or on behalf of Advisory Board. (610.010(6), RSMo).

## **11. Remedies for and Defense of Violations of the Sunshine Law (610.027, RSMo)**

- 11.1. A civil action seeking judicial enforcement of the requirements of Sections 610.010 to 610.026, RSMo, of the Sunshine Law must be filed in the Jackson County Circuit Court. Upon service of the civil action, the Custodian of the Public Record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the requested Public Record, notwithstanding the applicability of an exemption pursuant to section 610.021, RSMo, or the assertion that the requested Public Record is not a Public Record until the court directs otherwise.
- 11.2. Upon a finding by a preponderance of the evidence that the Advisory Board or a Member has knowingly violated sections 610.010 to 610.026, RSMo, the Advisory Board or the Member shall be subject to a civil penalty in an amount up to one thousand dollars (\$1,000). If the court finds that there is a knowing violation of sections 610.010 to 610.026, RSMo, it may order the payment by the Advisory Board or the Member of all costs and reasonable attorney fees to any party successfully establishing a Sunshine Law violation.
- 11.3. Upon a finding by a preponderance of the evidence that the Advisory Board or a Member has purposely violated sections 610.010 to 610.026, RSMo, the Advisory Board or Member shall be subject to a civil penalty in an amount up to five thousand dollars (\$5,000). If the court finds that there was a purposeful violation of sections 610.010 to 610.026, RSMo, then the court shall order the payment by the Advisory Board or the Member of all costs and reasonable attorney fees to any party successfully establishing a Sunshine Law violation.
- 11.4. Factors to determine the amount of any penalty are: the Advisory Board's size, the seriousness of the offense, and whether the Advisory Board or the Member has violated the Sunshine Law previously.
- 11.5. If a Sunshine Law violation is found by a preponderance of the evidence, then the court shall void any action taken by the Advisory Board in violation of the Sunshine

Law so long as the public interest in enforcing the Sunshine Law outweighs the public interest in sustaining the validity of the Advisory Board's action; provided, however, that no action regarding the issuance of bonds or other evidence of indebtedness will be voided.

11.6. Civil actions to enforce the Sunshine Law shall be brought within one (1) year from which the violation is ascertainable and in no event shall a civil action be brought later than two (2) years after the violation.

## **12. Other Considerations**

This policy is intended to address the Sunshine Law and its effect on (1) public access to Advisory Board Records, and (2) Advisory Board meetings. In addition, Advisory Board is subject to the State and Local Records Law, Chapter 109, RSMo, governing local records management, retention and destruction.

This policy is retroactive to May 1, 2014, the date of establishment of the Advisory Board by Committee Substitute for Ordinance No. 140306.

# KANSAS CITY CHAPTER 353 ADVISORY BOARD

## CLOSED MEETING CHECKLIST

- **NOTICE GIVEN:** Check to make sure that proper notice of the closed meeting was given. The notice must refer to the specific section of Sunshine Law allowing closure of the meeting or vote (610.020, RSMo).

\_\_\_\_\_ **If proper notice of closed meeting was NOT given:** Announce the reasons that justify departing from the normal notice requirements and include this in the minutes of the open portion of the meeting.

- **VOTE ON WHETHER TO CLOSE THE MEETING OR VOTE** (610.022.1, RSMo)

\_\_\_\_\_ **Motion:** The motion to close the meeting must include a reference to the specific section of the Sunshine Law which allows closure of the meeting or vote. The motion should also indicate the matter to be discussed or voted upon in the closed meeting. The following is list of the statutory reasons a meeting may be closed:

\_\_\_\_\_ Legal actions, causes of action or litigation involving the Advisory Board and any confidential or privileged communications between the Advisory Board or its representatives and its attorneys (610.021(1) RSMo);

\_\_\_\_\_ Leasing, purchase or sales of real estate by the Advisory Board where public knowledge of the transaction might adversely affect the legal consideration therefor (610.021(2), RSMo);

\_\_\_\_\_ Hiring, firing, disciplining or promoting of a particular employees by the Advisory Board when information relating to an employee's performance or merit is discussed or recorded (610.021(3), RSMo);

\_\_\_\_\_ Preparation, including any discussions or work product, on behalf of the Advisory Board or its representatives for negotiations with employee groups (610.021(9), RSMo);

\_\_\_\_\_ Software codes for electronic data processing and documentation thereof (610.021(10), RSMo);

\_\_\_\_\_ Specifications for competitive bidding, until either the specifications are officially approved by the Advisory Board or are published for bid (610.021(11), RSMo);

\_\_\_\_\_ 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 (610.021(12), RSMo);

\_\_\_\_\_ Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment (610.021(13), RSMo);

\_\_\_\_\_ Records which are protected from disclosure by law (610.021(14), RSMo);

\_\_\_\_\_ Meetings and public records relating to scientific and technological innovations in which the owner has proprietary interest (610.021(15), RSMo); and

\_\_\_\_\_ Confidential or privileged communications between the Advisory Board and its auditor, including all auditor work product (610.021(17), RSMo).

\_\_\_\_\_ **Vote Needed:** A majority of the quorum present must vote in favor of closing the meeting.

\_\_\_\_\_ **Announcement:** The vote of each member on the question of closed the meeting or vote and the specific reason for closing that meeting or vote shall be announced publicly at the open meeting.

\_\_\_\_\_ **Minutes:** The minutes must include the same information as the announcement.

- **PUBLIC AREA:** Only that portion of the facility necessary to house the Advisory Board shall be closed and the public shall be allowed to remain so as to allow those members of the public to attend any subsequent open portion of the meeting (610.022.3, RSMo).
- **DISCUSSION IN CLOSED MEETING:** A meeting shall be closed only to the extent necessary to discuss that matter which was made part of the motion to close the meeting or vote and Members shall not discuss any topic not related to that matter (610.022.3, RSMo).
- **VOTES TAKEN IN CLOSED MEETING:** All votes taken in a closed meeting must be by roll call and shall be recorded indicating which Members voted yea and nay and which Members abstained (610.015, RSMo).
- **MINUTES:** The Sunshine Law sets forth minimum requirements for minutes of a closed meeting. (610.020.7, RSMo).

\_\_\_\_\_ **Date, Time and Place**

\_\_\_\_\_ **Members present and members absent**

\_\_\_\_\_ For each roll-call vote taken, who voted “yea” and “nay” and who abstained.



In addition, Missouri Attorney General Press Release dated 3/1/99 states that “...during a closed session, copious notes of the discussion should be taken to demonstrate if necessary, that the discussion was limited to the reason announced for closing the meeting.”

- **PUBLIC ANNOUNCEMENT:**

\_\_\_\_\_ **Eminent Domain:** Any vote regarding eminent domain shall become public or be publicly announced immediately following the action on the motion to authorize institution of such legal action (610.021(1), RSMo).

\_\_\_\_\_ **Other Records:** See Open Meetings and Public Records Policies and Procedures for guidelines regarding making records from closed meeting or closed votes available for public inspection and copying.

**CLASSIFICATION OF RECORDS**  
**ARE THEY OPEN OR CLOSED TO THE PUBLIC PURSUANT TO THE SUNSHINE LAW?**

Is it an internal memo or letter received or prepared by or on behalf of a Member consisting of advice, opinions, and recommendations in connection with the deliberative decision making process of the Advisory Board? (610.010(6), RSMo)	YES	<i>Is it retained by Advisory Board or presented at a public hearing?</i>	YES	Public Record		
			NO	Closed Record		
	NO	Move to next question				
Is it legal work product? (610.021(1), RSMo)	YES	Closed Record				
	NO	Move to next question				
Does it involve legal actions, causes of action or litigation to which the Advisory Board is a party? (610.021(1), RSMo)	YES	<i>Is litigation over or a Settlement Agreement executed?</i>	YES	Public Record		
	NO	Move to next question	YES	Closed Record until final disposition or settlement agreement signed.		
Does it involve lease or purchase or sale of real estate by Advisory Board? (610.021(2), RSMo)	YES	<i>Is it minutes or a vote of Advisory Board approving a contract relating to the lease, purchase or sale of real estate by Advisory Board which might adversely affect consideration therefore?</i>	YES	Must be made available to public check within 72 hours after execution of contract.	YES	Public Record. It shall become public or be announced immediately following the action in the motion to authorize such action.
	NO	Move to next question	NO	<i>Is it a vote or Advisory Board  regarding eminent domain? </i>	NO	Closed Record
Does it involve the hiring, firing, disciplining of a particular employee of Advisory Board? (610.021(3), RSMo)	YES	<i>Is it information relating to performance or merit of individual employee discussed or recorded?</i>	YES	Was it a vote on a final decision to hire, fire, promote or discipline an Advisory Board employee?	YES	Must be made available to public within 72 hours of end of meeting, but employee <u>affected shall be notified first.</u>

**CLASSIFICATION OF RECORDS**  
**ARE THEY OPEN OR CLOSED TO THE PUBLIC PURSUANT TO THE SUNSHINE LAW?**

	NO	Move to next question.	NO	Public Record	NO	Closed Record
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Does it involve nonjudicial mental or physical health proceeding involving identifiable persons? (610.010(5), RSMo)	YES	Closed Record	* Note: Most likely not applicable to Advisory Board			
	NO	Move to next question.				
Does it involve scholastic probation, expulsion, or graduation of identifiable individuals, including test scores? (610.021(6), RSMo)	YES	Closed Record	* Note: Most likely not applicable to Advisory Board			
	NO	Move to next question.				
Does it involve testing and examination materials? (610.021(7), RSMo)	YES	<i>Has exam been given?</i>	YES	Public Record		
	NO	Move to next question	NO	Closed Record		
Does it involve welfare case of an identifiable individual? (610.021(8), RSMo)	YES	Closed Record	* Note: Most likely not applicable to Advisory Board			
	NO	Move to next question				
Does it involve preparation on behalf of Advisory Board for negotiations with employee groups? (610.021(9), RSMo)	YES	Closed Record				
	NO	Move to next question				
Does it involve software codes for electronic data processing? (610.021(10), RSMo)	YES	Closed Record				
	NO	Move to next question				
Does it involve specifications for competitive bidding? (610.021(11), RSMo)	YES	<i>Have specifications been officially approved or published for bid?</i>	YES	Public Record		
	NO	Move to next question.	NO	Closed record until specifications are approved or published.		

**CLASSIFICATION OF RECORDS**  
**ARE THEY OPEN OR CLOSED TO THE PUBLIC PURSUANT TO THE SUNSHINE LAW?**

Is it a sealed bid or related document? (610.021(12), RSMo)	YES	<i>Have bids been opened?</i>	YES	Public Record		
	NO	Move to next question	NO	Closed Record until bids are opened		
Does it pertain to individually identifiable personnel records, performance ratings or records pertaining to employees or applicants? (610.021(13), RSMo)	YES	<i>Does it only state name, position, salary and length of service of an employee?</i>	YES	Public Record		
	NO	Move to next question.	NO	Closed Record		
Is it a record protected from disclosure by law? (610.021(14), RSMo)	YES	Closed Record				
	NO	Move to next question				
Is it related to scientific and technical innovations in which owner has a proprietary interest? (610.021(15), RSMo)	YES	Closed Record				
	NO	Move to next question				
Is it related to a municipal hotline established for the reporting of abuse and wrongdoing? (610.021(16), RSMo)	YES	Closed Record	* Note: Most likely not applicable to Advisory Board			
	NO	Move to next question				
Is it confidential or privileged communication between Advisory Board and its auditor? (610.021(17), RSMo)	YES	<i>See 610.021(18), RSMo for further details.</i>				
	NO	Public Record				

**NOTICE OF MEETING**  
**OF THE KANSAS CITY CHAPTER 353 ADVISORY BOARD**

Date of Posting: \_\_\_\_\_

Time of Posting: \_\_\_\_\_

The Kansas City Chapter 353 Advisory Board (Advisory Board) will hold a meeting at [insert time] on [insert day and date] at 1100 Walnut, Suite 1700, Kansas City, Missouri in the \_\_\_\_\_ room.

The tentative agenda of this meeting includes:

[insert agenda topics]

The tentative agenda of this meeting also includes a vote to close portion of the meeting to discuss and to vote on public business to the extent they relate to [insert brief specific description using statutory words], as permitted by Section [insert section and subsection of the Sunshine Law providing for closure of the topic], RSMo.

Representatives of the news media may request notices of meetings of the Advisory Board concurrently with the notices being made available to the Advisory Board Members and publicly posted as required by the Missouri Open Meetings Law by contacting:

Advisory Board  
Administrative Assistant to the Executive Director  
1100 Walnut, Suite 1700  
Kansas City, MO 64106  
(816) 221-0636  
[stumey@edckc.com](mailto:stumey@edckc.com)

If all or any portion of the meeting is conducted by telephone or other electronic means, the public shall be allowed to observe and attend said meeting or portion of the meeting at the above location.

# GOVERNMENTAL BODIES AND RECORDS

## Chapter 610

Missouri Revised Statutes  
August 28, 2014

SECTION:	GOVERNMENTAL BODIES AND RECORDS
<a href="#">610.010</a>	Definitions
<a href="#">610.011</a>	Liberal construction of law to be public policy
<a href="#">610.015</a>	Votes, how taken
<a href="#">610.020</a>	Notice of meetings, when required--recording of meetings to be allowed, guidelines, penalty--accessibility of meetings—minutes of meetings to be kept, content--voting records to be included
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<a href="#">610.023</a>	Records of governmental bodies to be in care of custodian, duties--records may be copied but not removed, exception, procedure--denial of access, procedure
<a href="#">610.024</a>	Public record containing exempt and nonexempt materials, nonexempt to be made available--deleted exempt materials to be explained, exception
<a href="#">610.025</a>	Electronic transmission of messages relating to public business, requirements
<a href="#">610.026</a>	Fees for copying public records, limitations--fee money remitted to whom--tax, license or fee as used in Missouri Constitution article X, Section 22, not to include copying fees
<a href="#">610.027</a>	Violations--remedies, procedure, penalty, purposeful violations--validity of actions by governing bodies in violation--governmental bodies may seek interpretation of law, attorney general to provide.
<a href="#">610.028</a>	Legal defense of members of governmental bodies, when--written policy on release of information required--persons reporting violations exempt from liability and discipline
<a href="#">610.029</a>	Governmental agencies to provide information by electronic services, contracts for public records databases, requirements, electronic services defined--division of data processing may be consulted
<a href="#">610.030</a>	Injunctive relief authorized
<a href="#">610.032</a>	Executive agency disclosure of closed records, purpose, procedure--executive agency defined
<a href="#">610.035</a>	State entity not to disclose Social Security number, exceptions

# GOVERNMENTAL BODIES AND RECORDS

## Missouri Revised Statutes Chapter 610, Sections 610.010-610.035

### **610.010 Definitions.**

As used in this chapter, unless the context otherwise indicates, the following terms mean:

- (1) “Closed meeting”, “closed record”, or “closed vote”, any meeting, record or vote closed to the public;
- (2) “Copying”, if requested by a member of the public, copies provided as detailed in section 610.026, if duplication equipment is available;
- (3) “Public business”, all matters which relate in any way to the performance of the public governmental body’s functions or the conduct of its business;
- (4) “Public governmental body”, any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:
  - (a) Any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a community college, which is supported in whole or in part from state funds, including but not limited to the administrative entity known as “The Curators of the University of Missouri” as established by section 172.020;
  - (b) Any advisory committee or commission appointed by the governor by executive order;
  - (c) Any department or division of the state, of any political subdivision of the state, of any county or of any municipal government, school district or special purpose district including but not limited to sewer districts, water districts, and other subdistricts of any political subdivision;
  - (d) Any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasi-judicial power;
  - (e) Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body’s governing board or its chief

administrative officer, policy or policy revisions or expenditures of public funds including, but not limited to, entities created to advise bi- state taxing districts regarding the expenditure of public funds, or any policy advisory body, policy advisory committee or policy advisory group appointed by a president, chancellor or chief executive officer of any college or university system or individual institution at the direction of the governing body of such institution which is supported in whole or in part with state funds for the specific purpose of recommending directly to the public governmental body's governing board or the president, chancellor or chief executive officer policy, policy revisions or expenditures of public funds provided, however, the staff of the college or university president, chancellor or chief executive officer shall not constitute such a policy advisory committee. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subdivision;

(f) Any quasi-public governmental body. The term "quasi-public governmental body" means any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of chapter 352, 353, or 355, or unincorporated association which either:

- a. Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or
- b. Performs a public function as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation; and

(g) Any bi-state development agency established pursuant to section 70.370;

(5) "Public meeting", any meeting of a public governmental body subject to sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference

call, video conference, internet chat, or internet message board. The term “public meeting” shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one location in order to conduct public business;

- (6) “Public record”, 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 for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. 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 said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described in this subdivision shall be retained by the public governmental body in the same manner as any other public record;
- (7) “Public vote”, any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.

(L. 1973 S.B. 1 § 1, A.L. 1977 H.B. 130, A.L. 1978 H.B. 882, A.L. 1982 H.B. 1253, A.L. 1987 S.B. 2, A.L. 1993 H.B. 170, A.L. 1998 H.B. 1095, A.L. 2004 S.B. 1020, et al.) (2002) For-profit telecommunications utility with the power of eminent domain, but without the power to tax, to formulate policies, or to promulgate statutes, ordinances, or regulations, does not constitute a public governmental body within meaning of section. *Stewart v. Williams Communications, Inc.*, 85 S.W.3d 29 (Mo.App.W.D.).

#### **610.011 Liberal construction of law to be public policy.**

- (1) 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.

- (2) Except as otherwise provided by law, all public meetings of public governmental bodies shall be open to the public as set forth in section 610.020, all public records of public governmental bodies shall be open to the public for inspection and copying as set forth in sections 610.023 to 610.026, and all public votes of public governmental bodies shall be recorded as set forth in section 610.015.

(L. 1987 S.B. 2, A.L. 2004 S.B. 1020, et al.)

#### **610.015 Votes, how taken.**

Except as provided in section 610.021, rules authorized pursuant to Article III of the Missouri Constitution and as otherwise provided by law, all votes shall be recorded, and if a roll call is taken, as to attribute each “yea” and “nay” vote, or abstinence if not voting, to the name of the individual member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the public and public votes and public records shall be open to the public for inspection and duplication. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, except for the Missouri general assembly and any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting or who are participating via videoconferencing. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

(L. 1973 S.B. 1 § 2, A.L. 1987 S.B. 2, A.L. 1993 H.B. 170, A.L. 1998 H.B. 1095, A.L. 2004 S.B. 1020, et al., A.L. 2013 S.B. 170)

\* Effective 10-11-13, see § 21.250 . S.B. 170 was vetoed July 2, 2013. The veto was overridden on September 11, 2013.

#### **610.020 Notice of meetings, when required--recording of meetings to be allowed, guidelines, penalty--accessibility of meetings--minutes of meetings to be kept, content--voting records to be included.**

- (1) All public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the

designated location where the public may observe and attend the meeting. If a public body plans to meet by internet chat, internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

- (2) Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours, exclusive of weekends and holidays when the facility is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.
- (3) A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of section 610.021 shall be permitted without permission of the public body; any person who violates this provision shall be guilty of a class C misdemeanor.
- (4) When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.
- (5) A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.
- (6) If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body,

compliance with that section shall constitute compliance with the notice requirements of this section.

- (7) A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each “yea” and “nay” vote or abstinence if not voting to the name of the individual member of the public governmental body.

(L. 1973 S.B. 1 § 3, A.L. 1982 H.B. 1253, A.L. 1987 S.B. 2, A.L. 1993 H.B. 170, A.L. 1998 H.B. 1095, A.L. 2004 S.B. 1020, et al.)

#### **610.021 Closed meetings and closed records authorized when, exceptions.**

Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

- (1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;
- (2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;
- (3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public

governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two hour period before such decision is made available to the public. As used in this subdivision, the term “personal information” means information relating to the performance or merit of individual employees;

- (4) The state militia or national guard or any part thereof;
- (5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;
- (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;
- (7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;
- (8) Welfare cases of identifiable individuals;
- (9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;
- (10) Software codes for electronic data processing and documentation thereof;
- (11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;
- (12) 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;
- (13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

- (14) Records which are protected from disclosure by law;
- (15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;
- (16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;
- (17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;
- (18) Operational guidelines, policies and specific response plans developed, adopted, or maintained by any public agency responsible 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 and which has the potential to endanger individual or public safety or health. Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
- (19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:
  - (a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;
  - (b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
  - (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is

necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

- (20) The portion of a record that identifies security systems or access codes or authorization codes for security systems of real property;
- (21) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open;
- (22) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body; and
- (23) Records submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual property or perform sponsored research and which contains sales projections or other business plan information the disclosure of which may endanger the competitiveness of a business.

(L. 1987 S.B. 2, A.L. 1993 H.B. 170, A.L. 1995 H.B. 562, A.L. 1998 H.B. 1095, A.L. 2002 S.B. 712, A.L. 2004 S.B. 1020, et al., A.L. 2008 H.B. 1450, A.L. 2009 H.B. 191, A.L. 2013 H.B. 256, 33 & 305) Effective 5-31-13

CROSS REFERENCE:

Child's school records to be released to parents, attorney's fees and costs assessed, when, 452.375

**610.022 Closed meetings, procedure and limitation--public records presumed open unless exempt--objections to closing meetings or records,procedure.**

- (1) Except as set forth in subsection 2 of this section, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the

public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific section of this chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.

- (2) A public governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to the specific exception allowed pursuant to the provisions of section 610.021. Such notice shall comply with the procedures set forth in section 610.020 for notice of a public meeting.
- (3) Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.
- (4) Nothing in sections 610.010 to 610.028 shall be construed as to require a public governmental body to hold a closed meeting, record or vote to discuss or act upon any matter.
- (5) Public records shall be presumed to be open unless otherwise exempt pursuant to the provisions of this chapter.
- (6) In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in this chapter, such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to section 610.027.

(L. 1987 S.B. 2, A.L. 1993 H.B. 170, A.L. 1998 H.B. 1095, A.L. 2004 S.B. 1020, et al.)

**610.023 Records of governmental bodies to be in care of custodian, duties--records may be copied but not removed, exception, procedure--denial of access, procedure.**

- (1) Each public governmental body is to appoint a custodian who is to be responsible for the maintenance of that body's records. The identity and location of a public governmental body's custodian is to be made available upon request.
- (2) Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.
- (3) Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.
- (4) If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.

(L. 1987 S.B. 2, A.L. 1998 H.B. 1095, A.L. 2004 S.B. 1020, et al.)

**610.024 Public record containing exempt and nonexempt materials, nonexempt to be made available--deleted exempt materials to be explained, exception.**

- (1) If a public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public governmental body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

- (2) When designing a public record, a public governmental body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public governmental body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

(L. 1993 H.B. 170)

**610.025 Electronic transmission of messages relating to public business, requirements.**

Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exceptions of section 610.021.

(L. 2004 S.B. 1020, et al.)

**610.026 Fees for copying public records, limitations--fee money remitted to whom--tax, license or fee as used in Missouri Constitution Article X, Section 22, not to include copying fees.**

- (1) Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:
  - (1) Fees for copying public records, except those records restricted under section 32.091 , shall not exceed ten cents per page for a paper copy not larger than nine by fourteen inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records. Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public

interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester;

- (2) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine by fourteen inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.
- (2) Payment of such copying fees may be requested prior to the making of copies.
- (3) Except as otherwise provided by law, each public governmental body of the state shall remit all moneys received by or for it from fees charged pursuant to this section to the director of revenue for deposit to the general revenue fund of the state.
- (4) Except as otherwise provided by law, each public governmental body of a political subdivision of the state shall remit all moneys received by it or for it from fees charged pursuant to sections 610.010 to 610.028 to the appropriate fiscal officer of such political subdivision for deposit to the governmental body's accounts.
- (5) The term "tax, license or fees" as used in section 22 of article X of the Constitution of the state of Missouri does not include copying charges and related fees that do not exceed the level necessary to pay or to continue to pay the costs for providing a service, program, or activity which was in existence on November 4, 1980, or which was approved by a vote of the people subsequent to November 4, 1980.

(L. 1987 S.B. 2 § 610.025, A.L. 1998 H.B. 1095, A.L. 2004 S.B. 1020, et al.)

**610.027    Violations--remedies, procedure, penalty, purposeful violations--validity of actions by governing bodies in violation--governmental bodies may seek interpretation of law, attorney general to provide.**

- (1) The remedies provided by this section against public governmental bodies shall be in addition to those provided by any other provision of law. Any aggrieved

person, taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek judicial enforcement of the requirements of sections 610.010 to 610.026. Suits to enforce sections 610.010 to 610.026 shall be brought in the circuit court for the county in which the public governmental body has its principal place of business. Upon service of a summons, petition, complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of sections 610.010 to 610.026, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption pursuant to section 610.021 or the assertion that the requested record is not a public record until the court directs otherwise.

- (2) Once a party seeking judicial enforcement of sections 610.010 to 610.026 demonstrates to the court that the body in question is subject to the requirements of sections 610.010 to 610.026 and has held a closed meeting, record or vote, the burden of persuasion shall be on the body and its members to demonstrate compliance with the requirements of sections 610.010 to 610.026.
- (3) Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has knowingly violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of sections 610.010 to 610.026, the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.
- (4) Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.
- (5) Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, a court shall void any action taken in violation of sections 610.010 to 610.026, if the court

finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken in the closed meeting, record or vote. Suit for enforcement shall be brought within one year from which the violation is ascertainable and in no event shall it be brought later than two years after the violation. This subsection shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a public governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

- (6) A public governmental body which is in doubt about the legality of closing a particular meeting, record or vote may bring suit at the expense of that public governmental body in the circuit court of the county of the public governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body.

(L. 1982 H.B. 1253, A.L. 1987 S.B. 2, A.L. 1990 H.B. 1395 & 1448, A.L. 1998 H.B. 1095, A.L. 2004 S.B. 1020, et al.)

**610.028 Legal defense of members of governmental bodies, when--written policy on release of information required--persons reporting violations exempt from liability and discipline.**

- (1) Any public governmental body may provide for the legal defense of any member charged with a violation of sections 610.010 to 610.030.
- (2) Each public governmental body shall provide a reasonable written policy in compliance with sections 610.010 to 610.030, open to public inspection, regarding the release of information on any meeting, record or vote and any member or employee of the public governmental body who complies with the written policy is not guilty of a violation of the provisions of sections 610.010 to 610.030 or subject to civil liability for any act arising out of his adherence to the written policy of the agency.
- (3) No person who in good faith reports a violation of the provisions of sections 610.010 to 610.030 is civilly liable for making such report, nor, if such person is an officer or employee of a public governmental body, may such person be demoted, fired, suspended, or otherwise disciplined for making such report.

(L. 1982 H.B. 1253, A.L. 1987 S.B. 2, A.L. 2004 H.B. 1548)

**610.029 Governmental agencies to provide information by electronic services, contracts for public records databases, requirements, electronic services defined--division of data processing may be consulted.**

- (1) A public governmental body keeping its records in an electronic format is strongly encouraged to provide access to its public records to members of the public in an electronic format. A public governmental body is strongly encouraged to make information available in usable electronic formats to the greatest extent feasible. A public governmental body shall not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are online or stored in an electronic record-keeping system used by the agency. Such contract shall not allow any impediment that as a practical matter makes it more difficult for the public to inspect or copy the records than to inspect or copy the public governmental body's records. For purposes of this section, a usable electronic format shall allow, at a minimum, viewing and printing of records. However, if the public governmental body keeps a record on a system capable of allowing the copying of electronic documents into other electronic documents, the public governmental body shall provide data to the public in such electronic format, if requested. The activities authorized pursuant to this section shall not take priority over the primary responsibilities of a public governmental body. For purposes of this section the term "electronic services" means online access or access via other electronic means to an electronic file or database. This subsection shall not apply to contracts initially entered into before August 28, 2004.
- (2) Public governmental bodies shall include in a contract for electronic services provisions that: (1) Protect the security and integrity of the information system of the public governmental body and of information systems that are shared by public governmental bodies; and limit the liability of the public governmental body providing the services.
- (3) Each public governmental body may consult with the information technology services division of the office of administration to develop the electronic services offered by the public governmental body to the public pursuant to this section.

(L. 1993 H.B. 170, A.L. 1998 H.B. 1095, A.L. 2004 S.B. 1020, et al., A.L. 2014 H.B. 1299 Revision)

**610.030 Injunctive relief authorized.**

The circuit courts of this state shall have the jurisdiction to issue injunctions to enforce the provisions of sections 610.010 to 610.115.

(L. 1973 S.B. 1 § 5, A.L. 1982 H.B. 1253, A.L. 1998 H.B. 1095)

**610.032 Executive agency disclosure of closed records, purpose, procedure--executive agency defined.**

- (1) If an executive agency's records are closed by law, it may not disclose any information contained in such closed records in any form that would allow identification of individual persons or entities unless:
  - (1) Disclosure of such information is made to a person in that person's official capacity representing an executive agency and the disclosure is necessary for the requesting executive agency to perform its constitutional or statutory duties; or
  - (2) Disclosure is otherwise required by law.
- (2) Notwithstanding any other provision of law to the contrary, including, but not limited to, section 32.057, such closed information may be disclosed pursuant to this section; however, the providing executive agency may request, as a condition of disclosing such information, that the requesting executive agency submit:
  - (1) The constitutional or statutory duties necessitating the disclosure of such information;
  - (2) The name and official capacity of the person or persons to whom such information will be disclosed;
  - (3) An affirmation that such information will be used only in furtherance of such constitutional or statutory duties; and
  - (4) The date upon which the access is requested to begin, when the request is for continuous access.
- (3) Any executive agency receiving such a request for closed information shall keep the request on file and shall only release such information to the person or persons listed on such request. If the request is for continuous access to such information, the executive agency shall honor the request for a period of one year from the beginning date indicated on such request. If the requesting executive agency requests such information for more than one year, the agency shall provide an updated request for closed information to the providing executive agency upon expiration of the initial request.
- (4) Any person receiving or releasing closed information pursuant to this section shall be subject to any laws, regulations or standards of the providing executive agency regarding the confidentiality or misuse of such information and shall be subject to any penalties provided by such laws, regulations or standards for the violation of the confidentiality or misuse of such information.
- (5) For the purposes of this section, "executive agency" means any administrative governmental entity created by the constitution or statutes of this state under

the executive branch, including any department, agency, board, bureau, council, commission, committee, board of regents or board of curators of any institution of higher learning supported in whole or in part by state funds, any subdivision of an executive agency, and any legally designated agent of such entity.

(L. 1994 S.B. 685) Effective 5-10-94

**610.035 State entity not to disclose Social Security number, exceptions.**

No state entity shall publicly disclose any Social Security number of a living person unless such disclosure is permitted by federal law, federal regulation or state law or unless such disclosure is authorized by the holder of that Social Security number or unless such disclosure is for use in connection with any civil, criminal, administrative or arbitral proceeding in any federal, state or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state or local court. Notwithstanding any other provision of law to the contrary, the disclosure of Social Security numbers of deceased persons shall be lawful, provided that the state agency disclosing the information knows of no reason why such disclosure would prove detrimental to the deceased individual's estate or harmful to the deceased individual's living relatives. For the purposes of this section, "publicly disclose" shall not include the use of any Social Security number by any state entity in the performance of any statutory or constitutional duty or power or the disclosure of any Social Security number to another state entity, political subdivision, agency of the federal government, agency of another state or any private person or entity acting on behalf of, or in cooperation with, a state entity. Any person or entity receiving a Social Security number from any entity shall be subject to the same confidentiality provisions as the disclosing entity. For purposes of this section, "state entity" means any state department, division, agency, bureau, board, commission, employee or any agent thereof. When responding to any requests for public information pursuant to this chapter, any costs incurred by any state entity complying with the provisions of this section may be charged to the requester of such information.

(L. 1998 H.B. 1043 § 1, A.L. 1999 H.B. 453)

## **Sunshine Law: Top 10 Things to Know (Missouri Attorney General 2018)**

1. When in doubt, a meeting or record of a public body should be opened to the public.
2. The Sunshine Law applies to all records, regardless of what form they are kept in, and to all meetings, regardless of the manner in which they are held.
3. The Sunshine Law allows a public body to close meetings and records to the public in some limited circumstances, but it almost never requires a public body to do so.
4. A public body generally must give at least 24 hours' public notice before holding a meeting. If the meeting will be closed to the public, the notice must state the specific provision of the law that allows the meeting to be closed.
5. Each public body must have a written Sunshine Law policy and a custodian of records whose name is available to the public upon request.
6. The Sunshine Law requires a custodian of records to respond to a records request as soon as possible but no later than three business days after the custodian receives it.
7. The Sunshine Law deals with whether a public body's records must be open to the public, but it generally does not state what records the body must keep or for how long. A body cannot, however, avoid a records request by destroying records after it receives a request for those records. For more information concerning records retention schedules, please visit the Missouri Secretary of State's Website.
8. The Sunshine Law requires a public body to grant access to open records it already has, but it does not require a public body to create new records in response to a request for information.
9. When responding to a request for copies of its records, the Sunshine Law limits how much a public body can charge for copying and research costs.
10. There are special laws and rules that govern access to law enforcement and judicial records

## **Missouri Sunshine Law FAQs (Missouri Attorney General 2018)**

### **How much can a public governmental body charge for records requests?**

Section 610.026.1(1), RSMo, allows a public governmental body to charge up to 10 cents per page for standard paper copies, the average hourly rate of pay for clerical staff to duplicate documents, and the actual cost of the research time for fulfilling the request. This provision also requires that the public governmental body use the lowest salaried employees capable of searching, researching, and copying the records. Fees for accessing records on other media, or non-standard paper copies, shall reflect actual cost

involved. The requestor may wish to ask for a breakdown of the costs associated with the request to determine how the public governmental body arrived at the final charge.

**Our board goes in to closed session and we don't know what they are going to talk about. Don't they have to let us know why they are closing the meeting?**

Yes. Section 610.022, RSMo, requires that public governmental bodies give at least 24 hours' notice of each proposed closed meeting and the reason for holding it by reference to the specific exception allowed under § 610.021, RSMo. Section 610.022, RSMo, also states that no public governmental body can move from an open meeting into a closed meeting without a roll call vote, and that the vote and the specific section of § 610.021, RSMo, shall be publicly announced and entered in to the minutes.

**I was told my request would be ready in 2 weeks. Doesn't the Sunshine Law say they have to give me the records in 3 days?**

Section 610.023.3, RSMo, requires that each request be responded to as soon as possible, but no later than the end of the third business day following the custodian of records' receipt of the request. If access is not granted immediately, the custodian of records is required to explain the reason for the delay and the earliest date and time that the records will be available. Therefore, public governmental bodies are allowed to exceed the three days for production, but they are required to notify you of the delay and explain when they anticipate the records will be ready.

**Can a public governmental body add items to the agenda after it has been posted?**

Section 610.020.1, RSMo, requires public governmental bodies to post a notice and a tentative agenda for each meeting, and that the agenda be constructed in a manner reasonably calculated to advise the public of the matters to be considered. Further, § 610.020.2, RSMo, requires that this notice be posted at least 24 hours in advance of the meeting. However, § 610.020, RSMo, includes an exception that, if for good cause, 24 hours notice is impossible or impractical, the public governmental body shall give as much notice as possible. Also, the nature of the good cause justifying the departure from normal requirements shall be stated in the minutes.

**Members of the board get together and talk about business outside of meetings. Is that a violation?**

Under the Sunshine Law, a meeting takes place when a majority or quorum of a public governmental body gathers to discuss or vote on public business (§ 610.010(5), RSMo, and *Colombo v. Buford*, 935 S.W.2d 690 (Mo. App. W.D. 1996)). Therefore, if less than a quorum of the public body meets to discuss public business, it is not a "meeting" as defined under the Sunshine Law. However, the Sunshine Law will apply to meetings of groups with less than a quorum when the entity is deliberately attempting to evade the Sunshine Law. *See, Colombo*, cited above. For example, a public governmental body may not purposely meet in groups with less than a quorum to discuss public business and then ratify those decisions in a subsequent public meeting.

**Board members e-mail each other about public business – is that considered a meeting?**

Pursuant to § 610.010(5), RSMo, a public meeting exists when a public body meets and public business is discussed, decided, or public policy is formulated. A single e-mail about an issue would not in and of itself constitute a meeting requiring advance notice. However, by § 610.025, RSMo, any member of a public governmental body who sends an e-mail relating to public business to a majority of the body shall also send a copy to the member's public office computer or to the custodian of records to be retained as a public record.

**A requestor refuses to use our request form and sends numerous e-mails with requests for records. Can we require that they fill out our standard request form?**

Section 610.023.3, RSMo, requires that each request for access to public records is to be responded to as soon as possible; it does not specify a manner in which these requests must be submitted. Therefore, a public governmental body may ask that requestors fill out a form, but it can't require them to do so.

**Who can impose penalties for Sunshine Law violations?**

Only a court can impose penalties if it finds that the Sunshine Law has been violated, and penalties are assessed only if the violation is found to be knowing or purposeful. A court may also void any action that was taken in violation of the law, but it is at the court's discretion, after considering if it is in the public interest to do so.

**How may we state our motion when we want to enter into a closed session?**

One sample motion is: "I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, subsection(s) \_\_\_\_, RSMo, for the purpose of (insert the language of the provision(s) cited)."

Please note that the public governmental body should only cite those subsections that are applicable to the material it intends to close (not a standard list of several subsections).

**Who is subject to the Sunshine Law?**

To determine if the Sunshine Law applies to a body, refer to the definition of public governmental body in § 610.010, RSMo, p. 4, which includes, but is not limited to:

- public bodies created by state constitution or statutes;
- public bodies created by order or ordinance of any political subdivision or district;
- judicial entities when operating in an administrative capacity;
- public bodies created by executive order, including:
  - any advisory committee or commission appointed by the governor by executive order;
  - any department or division of the state;

- any department or division of any political subdivision of the state;
- any department or division of any county or of any municipal government;
- any department or division school district;
- any department or division of a special purpose district including but not limited to sewer districts and water districts; and
- other subdistricts of any political subdivision;
- any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasi-judicial power; and
- certain committees or advisory boards appointed by any of the above entities. Note: The custodian of records of any public governmental body shall maintain a list of the policy advisory committees described in this section.

**Or, a body may qualify as a quasi-governmental body under the Sunshine Law, which is defined in § 610.010(4), RSMo, p. 5, and includes, but is not limited to:**

- any person, corporation or partnership organized or authorized to do business in this state by the provisions of chapter 352, 353, or 355, RSMo, or an unincorporated association which either:
  - has as its primary purpose to:
    - enter into contracts with public governmental bodies; or
    - engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or
  - performs a statutorily-based public function to:
    - allocate or issue tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain; or
    - contract leaseback agreements on structures whose annualized payments commit public tax revenues.
- any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation.

**Opinions Regarding Missouri Sunshine Law  
(Missouri Attorney General 2014)**

Opinions issued **after January 1, 1968** are available online at <http://ago.mo.gov/opinions/>.

Opinions issued **after 1933 and before January 1, 1968** must be requested in paper form. For each opinion requested, please provide the opinion number and year the opinion was issued. Paper copies may be obtained by calling 573-751-3321 or contacting:

Opinion Clerk  
Missouri Attorney General's Office  
P.O. Box 899  
Jefferson City, MO 65102

**Summaries**

Please note that the law cited for the summaries below may have been amended, especially for older opinions.

**Opinion No. 18-81**

Once a public governmental body has properly voted to close a meeting, all members of the general public should be removed from the meeting. The governmental body cannot discriminate in which members of the public it might wish to remove or allow to stay.

Note: The case of *Smith v. Sheriff*, 982 S.W.2d 775 (Mo. App. E.D. 1998), recognizes that a body may allow certain members of the public into a closed meeting to provide information to the body.

**Opinion No. 67-87**

The Student Government Association of Southwest Missouri State University is not generally considered a public governmental body subject to the Sunshine Law, although the Sunshine Law may be applicable to the Student Government Association under certain circumstances.

**Opinion No. 103-88**

The Missouri School Boards Association is a “quasi-public governmental body” and subject to provisions of Chapter 610, RSMo, the Sunshine Law.

**Opinion No. 89-89**

If a public governmental body retains copies of records of the information set out in Section 290.290, RSMo, 1986, they are public records and must be made available for inspection and copying pursuant to Section 610.023.

**Opinion No. 184-89**

Section 610.021(3) does not authorize a city's governing body to close a meeting when considering appointments of volunteers to citizen boards.

**Opinion No. 78-90**

The circuit clerk, prosecuting attorney and circuit judge are not required to release to the media and public the names of members of a grand jury.

**Opinion No. 97-90**

Pursuant to Section 610.022.2, notice of a closed meeting of a public governmental body must include the time, date and place of the meeting and a reference to the specific statutory exception allowing the meeting to be closed; however, notice of a closed meeting is not required to include a tentative agenda.

**Opinion No. 117-91**

Property record cards prepared and retained by a county assessor are public records, to be made available for inspection and copying as provided in Section 610.023.

**Opinion No. 77-92**

For purposes of 610.021(3) and (13), an elected mayor and elected city council members are not employees of a city; a city clerk and finance director, who are appointed and are paid, are employees; and members of a citizen board, who are appointed but not paid, are not employees.

**Opinion No. 80-93**

Records relating to permits to acquire a concealable firearm retained by a county sheriff as required by Section 571.090.5, RSMo Supp. 1992, are public records open to inspection.

Note: Missouri's concealed-carry law contains its own confidentiality provisions (Section 571.101.9, RSMo Supp. 2003).

**Opinion No. 192-94**

Telephone billing records of an individual member of the General Assembly are public records as defined by Section 610.010(6), RSMo Supp. 1993, to be made available for inspection and copying as provided in Sections 610.023 through 610.026, RSMo Supp. 1993.

**Opinion No. 68-95**

Reference to the number of the relevant subdivision in Section 610.021's list of exceptions to openness (for example, Section 610.021(1)) is sufficient to meet the requirement of Section 610.022, which requires a public body to announce the reason for closing a meeting. A recitation of the words in the relevant subdivision is not required.

**Opinion No. 151-95**

Citizens are authorized to videotape city council meetings if the taping is not obtrusive, based on the policy set out in Section 610.011.

Note: Section 610.020.3 has since been revised to expressly permit taping of open meetings.

**Opinion No. 158-95**

Pursuant to sections 610.105 and 610.120, a city auditor does not have authority to inspect municipal court records of dismissed or nolle prossed cases. They may only be inspected by the entities listed in Section 610.120.

**Opinion No. 106-96**

Pursuant to sections 79.200 and 610.120, a mayor may review an appointed city prosecutor's past prosecution record because the mayor is from a "law enforcement agency" and the review is related to "criminal justice employment."

**Opinion No. 82-97**

If a city council member is absent from a meeting that is closed pursuant to Section 610.021(3), the council member should have access to the minutes from the closed portion.

**Opinion No. 129-97**

The vote of each school board member must be available to the public on votes to hire, fire, discipline or promote particular employees in a closed meeting pursuant to Section 610.021(3). But the information considered during the closed meeting and before the actual vote is taken does not have to be disclosed.

**Opinion No. 153-98**

A request for a public record to be provided in a format other than paper, in this case microfilm, must be honored if the public governmental body is able to reproduce the record in that format.

Note: Section 610.023.3 has since been amended to require that if records are requested in a certain format, and that format is available, the public body shall provide the records in the requested format.

**Opinion No. 97-2000**

A public governmental body may decide in closed session pursuant to Section 610.021(2), RSMo, to enter into a contract that includes an option to purchase real estate at a particular price if the consideration for that contract could be affected by discussions in open sessions. However, within 72 hours of its decision the public governmental body must make public any minutes, votes or records relating to its decision.

Note: Section 610.021(2) has since been amended to require disclosure of minutes, votes and records upon execution of the lease, purchase or sale.

**Opinion No. 235-2000**

The board of aldermen may review a city employee's personnel file if it is necessary to care, manage or control the city. The authority may be delegated through resolution or ordinance to one or more members of the board.

**Opinion No. 255-2000**

Provisions of the Sunshine Law apply to a board of visitors created by Section 221.320, RSMo.

**Opinion No. 274-2000**

The Sunshine Law requires disclosure of the race of the arrested person and the arrest location if that information is contained in the arrest report and the arrest report is not closed under the Sunshine Law.

**Opinion No. 95-2001**

The names, addresses and water bills of customers of a public water supply district are records subject to disclosure under Chapter 610, RSMo. This does not apply to other information such as Social Security numbers.

**Opinion No. 100-2001**

A sheltered workshop established by a nonprofit corporation is a quasi-public governmental body and its financial records are subject to provisions of Chapter 610, RSMo.

**Opinion No. 106-2001**

The board of jury commissioners is a public governmental body and when it performs its duties pursuant to Chapter 494, RSMo, it is acting in an administrative role. Since the board of jury commissioners is a public governmental body, it is not exempt from the Sunshine Law, and if it retains the qualified jury list or prospective jury list, the board of jury commissioners is responsible for providing copies if requested under Chapter 610, RSMo.

**Opinion No. 117-2001**

A city council with a city manager form of government may go into closed session to discuss personnel matters involving any city employee.

**Opinion No. 168-2001**

When the securities commissioner or Department of Insurance makes a proper request for information about a financial institution, the Division of Finance may provide the information, which otherwise would be prohibited from disclosure, pursuant to Section 610.032 without a court order.

**Opinion No. 37-2003**

Section 211.321 requires that, with certain exceptions, those portions of juvenile court records and law enforcement records identifying juveniles must be kept confidential. So if a law enforcement record involving a juvenile would otherwise be an open record, the

law enforcement agency responding to a request for that record should redact identifying information about the juvenile and release the remainder of the record.

**Opinion No. 126-2003**

The Sunshine Law requires an election authority to release a record of voter registration information to a newspaper and to provide a copy in CD-ROM format if available.

**Opinion No. 143-2003**

A citizen's advisory committee is a public governmental body and records of communications from members of the committee or city staffers to a private consultant are public records. The city is obligated to retrieve public records it has given to a private consultant and make the records accessible to the public.

**Opinion No. 129-2004**

A task force appointed by a school district superintendent for the purpose of making budget proposals to the superintendent is a public governmental body and therefore task force meetings are subject to the Sunshine Law.

**Opinion No. 83-2009**

Meetings held between a city and a local firefighters union to negotiate a memorandum of understanding pursuant to Section 105.520 can be closed pursuant to Sections 610.010 through 610.035. However, when the written proposals are subject to adoption, modification or rejection by the governing body, the meeting no longer can be closed.

**Opinion No. 93-2012**

A public governmental body is authorized to close personally identifiable personnel records and records pertaining to employees, which would include pension database records. The only exception to this allowance is that records of the name, position, salary, and length of service of public employees may not be closed. Accordingly, information in the records consisting of the names and payments to public employees must be disclosed, but the rest may remain closed.

## **Court Decisions Regarding Missouri Sunshine Law (Missouri Attorney General 2014)**

Below are summaries of Missouri court decisions regarding the Sunshine Law. Please note that the law cited may have been amended, especially for older court decisions.

### **Hudson v. School District of Kansas City, 578 S.W.2d 301 (Mo.App. W.D. 1979)**

Meeting by school board to discuss furlough of probationary teachers and to reassign administrative employees to fit under exemption for “meetings relating to hiring, firing, or promotion of personnel,” where meetings involved policy decisions regarding allocations of funds and did not focus on individual’s merits.

### **Kansas City Star Company v. Shields, 771 S.W.2d 101 (Mo. App. W.D. 1989)**

A violation of the Sunshine Law occurred when three members of a four-person budget committee of the city council met with the city budget officer and city manager and discussed the city budget in a luncheon meeting that was not announced as required by 610.020.

### **Charlier v. Corum, 774 S.W.2d 518 (Mo. App. W.D. 1989)**

A county sheriff is a “public governmental body” within the meaning of Section 610.010(4) because the office of sheriff is an administrative entity created by state statute.

### **Librach v. Cooper, 778 S.W.2d 351 (Mo. App. E.D. 1989)**

A severance agreement reached between a school district and superintendent is a public record to be made available for inspection and copying.

### **Defino v. Civic Center Corp., 780 S.W.2d 665 (Mo. App. E.D. 1989)**

No issue of a Sunshine Law violation was presented to the court where less than a quorum of a board of aldermen met with constituents. The court determined the Sunshine Law does not require public notice of every meeting between a constituent and an alderman.

### **Fitzgerald v. City of Maryland Heights, 796 S.W.2d 52 (Mo. App. E.D. 1990)**

The failure of city council to follow the Sunshine Law’s notice requirements did not excuse the mayor from his failure to comply with a directive adopted by the council in a meeting where he was present.

### **Missouri Protection and Advocacy Services v. Allan, 787 S.W.2d 291 (Mo. App. W.D. 1990)**

A preliminary draft of a report prepared by the U.S. Office of Special Education Programs in possession of the Missouri Department of Elementary and Secondary Education is a public record because it is a record retained by a public governmental body. Section 610.010(6) does not require a record to be in final form.

**Charlier v. Corum, 794 S.W.2d 676 (Mo. App. W.D. 1990)**

A county sheriff purposely violated the Sunshine Law when he refused to make public records available. Neither the sheriff's "good faith" belief that he was not a "public governmental body" nor the fact that he acted upon advice of legal counsel relieved him from liability. More recently, the Missouri Supreme Court in *Spradlin v. City of Fulton*, 982 S.W.2d 255 (Mo.banc 1998), denied attorney fees when the public body did not purposely violate the Sunshine Law.

**City of St. Louis v. City of Bridgeton, 806 S.W.2d 717 (Mo. App. E.D. 1991)**

A public governmental body purchasing a number of contiguous parcels in a single subdivision is authorized to close records relating to the price paid for one parcel until all the parcels have been acquired.

**Paskon v. Salem Memorial Hospital District, 806 S.W.2d 417 (Mo. App. S.D. 1991)**

A physician accorded clinical privileges at a public hospital and paid an hourly wage for required shifts to staff the hospital emergency room was an employee within the meaning of Section 610.021(3) of the Sunshine Law.

**Wolfskill v. Henderson, 823 S.W.2d 112 (Mo. App. W.D. 1991)**

A police department's internal investigative files relating to the disciplining of a public employee are closed records pursuant to Section 610.021(3) and (13). But a grand jury may access these files (*State ex. rel. Jackson County v. Shinn*, 835 S.W.2d 347 (Mo. App. W.D. 1992)). Also, see *Guyer v. City of Kirkwood*, 38 S.W.3d 412 (Mo.banc 2001), where a complaint alleging criminal misconduct of a police officer becomes public once the investigation is inactive.

**Pultizer Publishing Co. v. Missouri State Employees' Retirement System (MOSERS), 927 S.W.2d 477 (Mo. App. W.D. 1996)**

A public governmental body may not promulgate a rule to close public records where there is no statutory authority for that rule and the records appear to be public pursuant to Section 610.021(13).

**Deaton v. Kidd, 932 S.W.2d 804 (Mo. App. W.D. 1996)**

A public governmental body may not restrict public access to records by selling exclusive rights to computer tapes of public records to a bidder who then provides the records at a cost to the public.

**Colombo v. Buford, 935 S.W.2d 690 (Mo. App. W.D. 1996)**

Actions brought under Section 610.027 (alleged violations of the Sunshine Law) must be filed within six months after the plaintiffs are informed about the questionable meeting or when they could have ascertained a possible violation of law. Pursuant to Section 610.010, a member of a public governmental body is not a governmental body.

**City of Springfield v. Events Publishing Co., 951 S.W.2d 366 (Mo. App. S.D. 1997)**

Names and addresses of utility customers are public records unless those customers request confidentiality. If a public governmental body seeks a judgment declaring whether a record is open or closed pursuant to Section 610.027.5, the body must pay both its own costs of bringing the action and the respondent's attorney fees.

**State ex. rel. Lohman v. Brown, 936 S.W.2d 607 (Mo.App. W.D. 1997)**

Section 32.057.1 which makes it unlawful for the Director of Revenue to divulge to anyone any information related to tax returns filed with the Department, precluded the Director from providing the names and address of person who had paid use taxes in Missouri.

**News-Press and Gazette Co. v. Cathcart, 974 S.W.2d 576 (Mo. App. W.D. 1998)**

A coroner is a public governmental body under Section 610.010. But an autopsy report used in an active investigation is an "investigative report" and is closed pursuant to Section 610.100.

**Spradlin v. City of Fulton, 982 S.W.2d 255 (Mo.banc 1998)**

A city's closed-meeting discussions of a proposed golf course violate the Sunshine Law when the discussions do not involve the city's proposed lease of that golf course pursuant to Section 610.021(2). However, the city is not liable for attorney fees unless its violation is purposeful pursuant to Section 610.027.3, RSMo. (But see revised Section 610.027.3 which allows attorney fees to be assessed for a knowing violation.)

**Smith v. Sheriff, 982 S.W.2d 775 (Mo. App. E.D. 1998)**

A school board did not violate the Sunshine Law when it allowed certain members of the public to attend a closed meeting to provide information involving the rehiring of a teacher. (But note that a body may not arbitrarily discriminate in admitting members of the public into a closed meeting. See Attorney General Opinion No. 18-81.)

**North Kansas City Hospital Board of Trustees v. St. Luke's Northland Hospital, 984 S.W.2d 113 (Mo. App. W.D. 1998)**

A nonprofit corporation created to carry out the purposes of a municipal hospital and controlled by the hospital's board of trustees is a quasi-public governmental body and therefore is subject to the Sunshine Law.

**Hemeyer v. KRCG-TV, 6 S.W.3d 880 (Mo.banc 1999)**

A security videotape of a booking at a county jail is a public record even though the videotape is retained for only days. Also, a public body that brings an action under Section 610.027.5 to determine its responsibility under the Sunshine Law is liable for reasonable attorney fees because the body brings suit at its own expense under that section.

**SNL Securities, L.C. v. National Association of Insurance Commissioners, 23 S.W.3d 734 (Mo. App. W.D. 2000)**

A national association of the chief insurance regulators of all 50 states did not constitute a quasi-public governmental body and therefore was not required to comply with the Sunshine Law.

**Guyer v. City of Kirkwood, 38 S.W.3d 412 (Mo.banc 2001)**

A complaint alleging criminal misconduct by a police officer is an “incident report” and a report concerning investigation into the complaint is an “investigative report” under Section 610.100. Those records can be closed only on grounds specified in Section 610.100 for closing law enforcement records. They cannot be closed under Section 610.021(3) or (13) on grounds that they are personnel records or related to disciplining or firing of an employee.

**Calvert v. Mehlville R-IX School District, 44 S.W.3d 455 (Mo. App. E.D. 2001)**

A school district is required to make public its vote to approve a settlement agreement with a former teacher. Accordingly the teacher is not entitled to damages for breach of a confidentiality provision in the settlement agreement when the district disclosed the existence of the agreement.

**Stewart v. Williams Communications, Inc., 85 S.W.3d 29 (Mo. App. W.D. 2002)**

A private, for-profit corporation that lacks the power to formulate public policy, make rules or tax and is not one of the specific entities included in the definition is not a public governmental body as defined in Section 610.010(4). Thus, the fact that a utility company possessed eminent domain power did not make it a public governmental body.

**Anderson v. Village of Jacksonville, 103 S.W.3d 190 (Mo. App. W.D. 2003)**

Anyone seeking access to public records must communicate a request in language that a reasonably competent custodian of the records would understand. The custodian must be able to identify records with reasonable specificity in order to be able to provide access to them.

**State ex rel. Moore v. Brewster, 116. S.W.3d 630 (Mo. App. E.D. 2003)**

A report on alleged misconduct by two school board members is a closed record as legal work product, but must be shared with all board members. Attorney fees are awarded against the board because of failure to appoint a custodian of records.

**R.E.J., Inc. v. City of Sikeston, 142 S.W.3d 744 (Mo.banc 2004)**

City that violated the notice requirements for meeting in adopting an ordinance may have that ordinance voided even if the city repealed the ordinance after being sued.

**Jones v. Jackson County Circuit Court, 162 S.W.3d 53 (Mo.App. W.D. 2005)**

The sunshine law does not require a government body to create a new record upon request, but only to provide access to existing records held or maintained by the public governmental body.

**Jones v. Housing Authority of Kansas City, 174 S.W.3d 594 (Mo. App. W.D. 2005)**

Identifying information of public housing tenants may be closed under the Sunshine Law because those records fall within the exception relating to “welfare cases of identifiable individuals” under Section 610.021(8).

**American Family Mutual Insurance Co. v. Missouri Department of Insurance, 169 S.W.3d 905 (Mo. App. W.D. 2005)**

Under Section 610.021(14), a public body may rely on another statute, in this case a trade secrets provision under Sections 417.450 - 417.467, to properly close certain insurance company records.

**State Ex. Rel. Goodman v. St. Louis Board of Police Commissioners, 181 S.W.3d 156 (Mo. App. E.D. 2005)**

An "incident report" as defined in Section 610.100 only includes those elements described in its definition. Other information, such as phone numbers and addresses, is not subject to disclosure.

**Client Services v. City of St. Charles, 182 S.W.3d 718 (Mo. App. E.D. 2006)**

Once a party seeks judicial enforcement of the Sunshine Law, the public governmental body has the burden to demonstrate compliance.

**Scroggins v. Social Services, 227 S.W.3d 498, (Mo. App. W.D. 2007)**

The director of the Children’s Division has discretion to release records and reports that it generates, but investigative reports of law enforcement agencies provided to the Children’s Division are closed records under Section 610.100.2 until the law enforcement investigation becomes inactive.

**Webster County Abstract Company, Inc. v. Atkinson, 328 S.W.3d 434 (Mo. App. S.D. 2010)**

Recorder of Deeds charged a flat fee (per record charge) for all copies of records as authorized by Section 59.130 which allows up to \$2.00 for the first page and up to \$1.00 for each additional page. Charge bore no relationship to actual costs. Abstract company filed suit claiming charges violated the Sunshine Law, specifically Section 610.026. The court held the language at the beginning of Section 610.026, “Except as otherwise provided by law” permitted the per record charges authorized by Section 59.130.

**R.L. Polk & Co. v. Missouri Department of Revenue, 309 S.W.3d 881 (Mo. App. W.D. 2010)**

Department of Revenue established a \$3.82 charge per electronic copy for Missouri vehicle or driver’s license records, based on analysis of its costs to maintain and provide electronic copies or records. Court ruled that DOR’s uniform per electronic record fee was not authorized by Section 610.026.1(2) in that it did not include only the costs of copies, staff time, and the cost of the medium used for duplication. The court recognized that such costs do not necessarily vary on a per record basis.

**State Ex. Rel. Pulitzer Missouri Newspapers, Inc. v. Seay, 330 S.W.3d 823 (Mo. App. S.D. 2011)**

City's former police chief was given a suspended imposition of sentence and placed on probation. The court ordered the file to be a closed and confidential file. Thereafter, the judge denied a newspaper publisher's request to review the file. The court of appeals, southern district, found the publisher was entitled to review the file because the former chief's case was not finally terminated as of the date of the request. Section 610.105, RSMo, provides records of a suspended imposition of sentence are closed records when the case is finally terminated. On the date the publisher inquired about the file, the case had not been finally terminated because the former chief, who had received a suspended sentence, had not yet completed his probation.

**Johnson v. State, 366 S.W.3d 11 (Mo. banc 2012)**

Reapportionment commission (consisting of six judges from state appellate courts) appointed by Supreme Court pursuant to Art. III, Sec 2 of the State Constitution, is a "judicial entity." Since the commission was not acting in an administrative capacity, it was not a "public governmental body" under the sunshine law.