

# **Governor's Access and Diversity Commission**

## **Guidelines Regarding Public Records and Public Meetings**

**January 26, 2006**

Article 1, Section 24 of the Constitution of the State of Florida, Access to public records and meetings, sets forth that "Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body,..." and that "All meetings of any collegial body of the executive branch of state government..., at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public...."

Chapter 119, Florida Statutes, Public Records, provides that it is the policy of this state that all state records are open for inspection by any person and that it is the duty of each agency to provide access to public records. (See Section 119.01, F.S., General state policy on public records.)

- Public records are broadly defined, to include "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form, characteristics or means of transmission, made or received...in connection with the transaction of official business...."
- There is no "unfinished business" exception to the public inspection and copying requirements of Chapter 119, F.S. If the purpose of a document prepared in connection with the official business of a public agency is to perpetuate, communicate or formalize knowledge, then it is a public record regardless of whether it is in final form or the ultimate product of the commission. The fact that a record is part of a preliminary process does not detract from its essential character as a public record.
- A non-final document need not be communicated to anyone in order to constitute a public record. So called "personal" notes are public records if they are intended to perpetuate or formalize knowledge of some type. Stated in another way, notes which are prepared for filing or otherwise intended as final evidence of knowledge obtained in the transaction of official business constitute public records. It is only those non-circulated materials which are merely preliminary or precursors to future documents, and which are not in and of themselves intended to serve as final evidence of the knowledge to be recorded, which fall outside the definitional scope of public records, e.g., notes to be used in preparing some other documentary material, tapes, or notes taken by a secretary as dictation.
- Information stored in a computer is a "public record."

- “E-mail” messages made or received by commission employees in connection with official business are public records.
- A custodian of public records may not impose a rule or condition of inspection which operates to restrict or circumvent a person’s right of access.

Chapter 286, Florida Statutes, Public Business, Miscellaneous Provisions.

Section 286.011, F.S., Public meetings and records; public inspection; criminal and civil penalties, provides that all meetings of any board, commission of any political subdivision, at which official acts are to be taken are declared to be public meetings, open to the public at all times. This is known as the “Sunshine Law” and requires that any communication among members be only within the context of an open and noticed public meeting.

- Meetings are noticed.
- The law applies to any gathering, formal or casual, of two or more members of the commission to discuss some matter on which foreseeable action will be taken by the commission.
- Reports may be circulated to members, but a report may not be circulated seeking comments from other members, when those comments will be shared among the members.