

WISCONSIN



DWD

Worker's Compensation
Advisory Council

Jennifer Wakerhauser

Chief Legal Counsel

Department of Workforce Development

Topics

Public
Records

Open
Meetings



Open Meetings



The Wisconsin Open Meetings Law

- Wis. Department of Justice – Office of Open Government, May 2019
- <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/OML-GUIDE.pdf>



Open Meetings Law

Wis. Stat. § 19.81

- “In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that **the public is entitled to the *fullest and most complete information regarding the affairs of government*** as is compatible with the conduct of governmental business.”



Council is a “governmental body”

- All Council meetings
 - Must be preceded by public notice; and
 - Must be held in a public place that is open and reasonably accessible to all members of the public

A “meeting” occurs whenever:

- Members **convene** for the **purpose** of conducting governmental business; and
- The **number** of members present is sufficient to determine the body's course of action

State et al. rel. Newspapers v. Showers, 135 Wis. 2d 77 (1987)



Meetings Presumed Open

- Meetings begin in open session
 - Citizens have the right to attend and observe
 - Allow recording, filming, or photographing the meeting



Meetings Presumed Open (cont.)

- By motion, may go into closed session
 - Votes of each member must be recorded
 - Chair must announce the statutory exemption authorizing closed session and the nature of the business to be considered



Public Records



The Wisconsin Public Records Law

- Wis. Department of Justice – Office of Open Government, October 2019
- <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/PRL-GUIDE.pdf>



Public Records Law

Wis. Stat. § 19.31

- The public records law “shall be construed in every instance with **a presumption of complete public access, consistent with the conduct of government business.** The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied.”



The Council Must Produce Records Upon Request

- “Record” is “[a]ny material on which written, drawn, printed, spoken, visual or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which **has been created or is being kept by** an authority.”

Wis. Stat. § 19.32(2)



Not a “record”

- Drafts, notes, and preliminary documents
- Published material available for sale or at library
- Purely personal property
- Material with limited access rights, such as copyrights or patents

Emails, Text Messages, and Documents on Private Accounts

- May be “records”
- Content determines whether it is a “record,” not the medium, format, or location
- **Personal materials on the same private accounts are not subject to disclosure**



Sufficient Request

- May be in writing or oral
- “Magic words” not required
- Must be reasonably specific as to time and subject matter
- Must reasonably describe the information or records requested



Response

- As soon as practicable, without delay:
 - Provide records
 - Deny or give partial denial
 - Respond that there are no records



If Council member receives a request:

- DWD will assist with the response
- Do not delay – forward the request to DWD
Legal: OpenRecords@dwd.wisconsin.gov
- Council members will likely need to search for responsive records



Questions?

Jennifer Wakerhauser

Chief Legal Counsel

(608) 261-6705

JenniferL.Wakerhauser@dwd.wisconsin.gov

www.dwd.wisconsin.gov

