

A few preliminary observations...

Statute-based issue

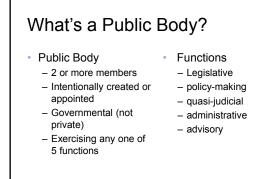
- Policy and practical concerns? Tell it to the legislature or gamble on judicial interpretation
- Legislation tends to be ad hoc
 - Tends to respond to specific situations rather than establish broad consistent policy
- Law has not kept pace with technology

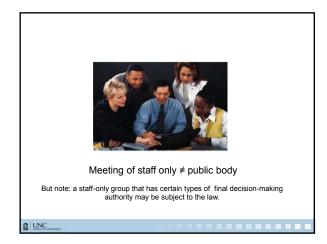
 Metadata, records in the cloud, text messages and email on private devices, electronic meetings; many questions to which there is not yet a clear answer

The Basics: Open Meetings

 Official meetings of public bodies must be noticed and open to the public unless the subject falls within an exception allowing a closed session meeting.







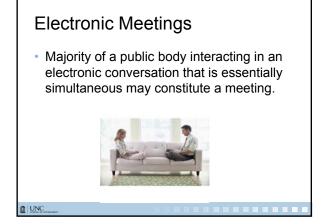
What's an Official Meeting?

- Majority of the members of the public body
- Gather together, in person or electronically

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- Purposes:
 - conduct a hearing
 - deliberatevote on public
 - business
 - otherwise transact the public business

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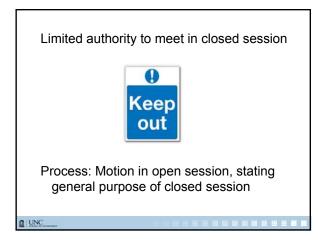


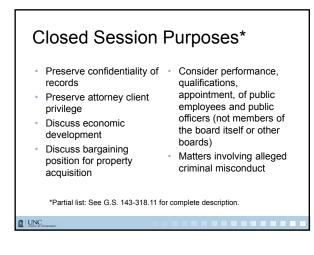
The Public Agency's Obligation

- Provide notice and opportunity to attend
 - Regular meetings: notice filed, posted, on website
 - Special meetings: 48 hour notice to "sunshine list"; posted on website
 - Emergency meetings: notice to news media who have requested it, in same manner as given to members of the public body
 - Recessed meetings: post on website

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 Create and retain minutes of meetings and general accounts of closed sessions.

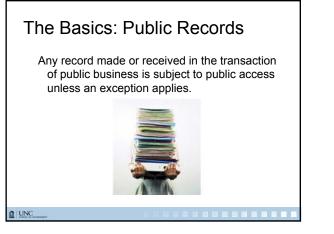




Talking about closed sessions

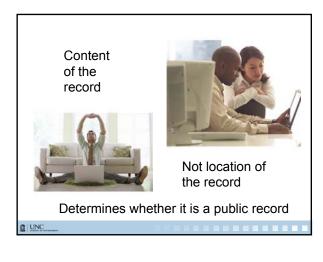
- No prohibition in the open meetings law
- Can't disclose information that is confidential under some other law









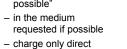


The Public Agency's Obligation

Provide records

- to anyone who requests them
- "as promptly as possible"

costs







Exceptions: Two Kinds

An exception may provide that records

- need not be provided, but you may do so
 Examples: Economic development information
- shall not be provided, and you may not do so
 Examples: Social security numbers, trade secrets,



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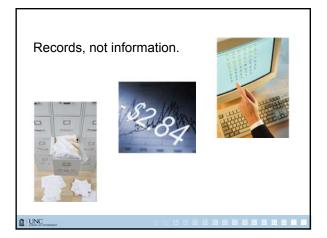
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A Framework For Responding 1. Does a record exist that corresponds to the request? If not, no disclosure is required. If so, continue to question 2. 2. Is the record "made or received in the transaction of public business?" If not, no disclosure is required. If so, continue to question 3. 3. Is there an exception that applies? If not, the requested access must be provided. If so, continue to question 4. 4. Does the exception apply to the entire record, or only to certain information, and does it prohibit disclosure or does it deny the right of access? If a prohibition applies to the entire record, do not disclose; if it applies only to certain information, redact and disclose. If there is no right of access to some or all of the information, but release is no tradent of prohibited, determine whether or not to release the entire or a redacted record.













Records Retention

- <u>Records retention schedules</u> dictate what must be kept, and for how long and provide legal authority to destroy
- Records of "short term value" need not be retained
 - Personal messages (including electronic mail) not related to official business.
 - Records that do not contain information necessary to conduct official business, meet statutory obligations, carry out administrative functions, or meet organizational objectives.

