

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. The shapes are primarily triangles and polygons, creating a dynamic, layered effect. The central text is white and stands out against the white background.

The Public Records Act & The Public Meetings Act

Disclaimer

- ▶ The Attorney General's Office represents the Wyoming Department of Agriculture and the Wyoming Board of Agriculture. Through that role, the Attorney General's Office may be called upon to provide legal advice to conservation districts on issues of general interest, as requested by the Director of the Department of Agriculture.
- ▶ As a result, at the request of the Director of the Department of Agriculture, this presentation is intended to provide general information geared towards conservation districts.

Special Districts Public Records and Meetings Act

- ▶ Wyoming Statutes §§ 16-12-101 through 105
- ▶ Applies to Conservation Districts
- ▶ Outlines what records must be kept by special districts: meeting minutes of the governing board and all subcommittees, audits, financial statements, election results, budgets, bylaws, rate schedules, policies and employment contracts with all administrators.
- ▶ Must make available 20 hours a week, if cannot make available, then must file copy with the county clerk.
- ▶ Meetings must be held in a location accessible to the general public or made accessible to the general public.

Public Records Act

- ▶ *Wyoming Statutes §§ 16-4-201 through 16-4-205*
- ▶ Public Records: “any information in a physical form created, accepted, or obtained by the state or any agency, institution or political subdivision of the state in furtherance of its official function and transaction of public business which is not privileged or confidential by law.”
- ▶ Information: “means opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic or other physical form.”

Public Records Act

- ▶ Right of Inspection: “all public records shall be open for inspection by any person at reasonable times, during business hours of the state entity or political subdivision”
- ▶ May make reasonable rules necessary for protection of records or prevention of unnecessary interference with discharge of duties by office.

Public Records Act

- ▶ If the public record requested is not in the custody or control of the person to whom the application is made, then **you shall notify the applicant within seven (7) business days** from the date acknowledged receipt of the request of the unavailability of the records.
- ▶ If the public record requested is in active use or storage, you **shall also notify the applicant within seven (7) business days**.
- ▶ Otherwise - the record should be released immediately so long as your ability to discharge your duties is not impaired or impeded.

Public Records Act

- ▶ Electronic Records: If the public record exists primarily or solely in electronic format, the custodian shall inform the requester. The following additional requirements apply:
 - ▶ Reasonable costs of producing a copy of the public record shall be borne by the party making the request
 - ▶ Agency shall provide an electronic record in alternative formats unless doing so is impractical or impossible
 - ▶ Agency shall not be required to compile data, extra data, or create a new documents if doing so would impair agency's ability to discharge duties
 - ▶ Agency is not required to allow inspection or copying of an electronic record if doing so would jeopardize or compromise the security or integrity of the original electronic record or any proprietary software

Public Records Act

- ▶ Denial of Inspection: The custodian shall allow inspection of records unless:
 - ▶ Inspection is contrary to state statute
 - ▶ Inspection is contrary to federal statute or regulation
 - ▶ Inspection is prohibited by the order of any court

In addition, the statute provides several classes of records which either *MAY* be denied, or *SHALL* be denied.

Public Records Act

- ▶ MAY deny on grounds that release is contrary to the public interest:
 - ▶ Investigation records
 - ▶ Test questions, scoring keys
 - ▶ Specific details of bona fid research projects of state institutions
 - ▶ Real estate appraisals except as otherwise provided in statute
 - ▶ Intra-agency documents that would not be available during litigation
 - ▶ ETC...
- ▶ SHALL deny unless otherwise provided:
 - ▶ Medical, psychological and sociological data of persons
 - ▶ Personnel files
 - ▶ Information concerning an agricultural operation, farming or conservation practice, or the land itself **IF** the information was provided by an agricultural producer or owner of agricultural land in order to participate in a program of the state . . . [and] deny the right of inspection to geospatial information maintained about the agricultural land.”

Public Records Act

Agricultural Exemption Exceptions

- ▶ May allow inspection of records when responding to a disease or pest threat if a threat exists and disclosure is necessary to assist in responding to the disease or pest threat.
- ▶ Shall allow inspection of payment information under a program of the state, including the names and addresses of recipients of payments.
- ▶ Shall allow inspection if the information has been transformed into a statistic or aggregate form.
- ▶ Shall allow inspection if the disclosure of information is pursuant to consent.

Public Records Act

- ▶ Right to copies: If a person has a right to inspect, they also have a right to copy any public records and to request that he be furnished with copies, printouts or photographs for a reasonable fee. If the custodian does not have facilities for making copies, then the applicant shall be granted access to the records for the purpose of making copies. These copies shall be made in the possession of the custodian. The Custodian *MAY* allow arrangements to take the records to a place to have copies made.
- ▶ Fee schedule *MUST* be in rule, resolution, ordinance, or other like authority, and must be reasonable. Can charge fees for copies and time spent.
- ▶ *MAY NOT* charge a fee as a condition of making public records available.

Violation

- ▶ Knowingly and intentionally violating this Act is a civil penalty not to exceed \$750.

Public Meetings Act

- ▶ All meetings of the governing body of an agency are “public meetings, open to the public at all times, except as otherwise provided.”
 - ▶ No action of a governing body of an agency “shall be taken except during a public meeting following notice of the meeting in accordance with this act.”
 - ▶ Action taken at a meeting not in conformity with this act “is null and void and not merely voidable.”

Public Meetings Act

- ▶ What is a Meeting? “an assembly of at least a quorum of the governing body of an agency which has been called by proper authority of the agency for the expressed purpose of discussion, deliberation, presentation of information or taking action regarding public business.”

Public Meetings Act

Regular Meetings

- ▶ In the absence of a statutory requirement, “the governing body of an agency *shall provide by ordinance, resolution, bylaws or rule for holding regular meetings* unless the agency's normal business does not require regular meetings in which case the agency shall provide notice of its next meeting to any person who requests notice.”
 - ▶ A member of the public may submit a request to the agency, requesting notice of the agency’s future meetings.
 - ▶ This public request for notice must be in writing, and must be renewed on an annual basis.

Public Meetings Act

Special Meetings

- ▶ Special meetings may be called by the presiding officer of a governing body by giving “verbal, electronic or written notice of the meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting the notice.”
 - ▶ The notice must specify the time and place of the special meeting and describe the business to be transacted.
 - ▶ The notice must be issued at least 8 hours prior to commencement of the meeting.
 - ▶ “No other business shall be considered at a special meeting.”
 - ▶ Translation: If an agenda item is not listed in the notice, or not described in sufficient-enough detail, it may NOT be covered at the meeting.
- ▶ “Proof of delivery of verbal notice to the newspaper of general circulation, radio or television station may be made by affidavit of the clerk or other employee or officer of the agency charged or responsible for distribution of the notice of the meeting.”

Public Meetings Act

Meeting Recess

- ▶ The governing body of an agency “may recess any regular, special, or recessed regular or special meeting to a place and at a time specified in an order of recess.”
- ▶ A copy of the order of recess must be **conspicuously** posted on or near the door of the place where the meeting or recessed meeting was held.

Public Meetings Act

Emergency Meeting

- ▶ The governing body of an agency may “hold an emergency meeting on matters of serious immediate concern to take temporary action without notice.” However, reasonable effort must be made to offer public notice of such meetings.
- ▶ “All action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be reconsidered and acted upon at an open public meeting” within 48 hours, excluding weekends and holidays, **unless the “event constituting the emergency continues to exist” after 48 hours.**
 - ▶ When this occurs, “the governing body may reconsider and act upon the temporary action at the next regularly scheduled meeting of the agency, but in no event later than 30 days from the date of the emergency action.”

Attending a Public Meeting

- ▶ You are not required to give any information as a condition of attending a public meeting.
- ▶ However, if you wish to speak at a public meeting, you can be required to give your name and affiliation.

Public Meetings Act



- ▶ Minutes of a meeting:
 - ▶ Must be recorded.
 - ▶ If no action is taken by the governing body, then minutes do not need to be published.

Public Meetings Act

- ▶ “No meeting shall be conducted by electronic means or any other form of communication that does not permit the public to hear, read or otherwise discern meeting discussion contemporaneously.”
- ▶ “Communications outside a meeting, including, but not limited to, sequential communications among members of an agency, shall not be used to circumvent the purpose of this act.”
 - ▶ No email chains or “reply all’s”
 - ▶ No mass instant messages
 - ▶ No mass texts

Public Meetings Act

- ▶ An executive session is an agency meeting that is not open to the public. Executive sessions are permissible but ****only**** under certain, limited circumstances.
- ▶ The general categories of situations allowing an executive session are:
 - ▶ Security threats/threats to property
 - ▶ Threats that could harm the public if they attended
 - ▶ Employment/personnel/human resources matters
 - ▶ When legal advice is obtained/discussing litigation or other legal matters
 - ▶ Preparing, grading, or administering license exams
 - ▶ When considering real estate purchases
 - ▶ When discussing “anonymous” gifts, donations, or bequests
 - ▶ When discussing any information specifically categorized as “confidential” under the law

Public Meetings Act

To enter Executive Session: need a motion stating a valid reason to enter into Executive Session. Should be noted in the minutes.

Executive Session Minutes:

1. Must be kept.
2. Are confidential
3. Must contain sufficient detail of the confidential information discussed.

Violations

- ▶ Knowingly and intentionally violating this Act is a civil penalty not to exceed \$750
- ▶ You are in violation if you attend or remain at a meeting in violation of the Open Meetings Act unless you record your objection in the meeting minutes. If minutes are not being taken (aka you're out at dinner) then you must make your objection public and have it recorded at the next regular meeting.
- ▶ So leave.