There are significant changes in both records and meetings laws. We’ll go over records first, then penalties, then meetings. Penalties are the same for records and meetings.

Existing law is represented on these slides in white text; changed law or new law in gold text.
WHAT IS A RECORD:
- Documents
- Papers
- Letters
- Maps
- Books
- Tapes
- Photographs
- Computer-based or generated information
- Data
- Data fields
- Email
Open Records

WHO IS SUBJECT TO OPEN RECORDS:

- State departments, agencies, boards, bureaus, offices, commissions, public corporations and authorities
- Counties, municipalities, school districts, other political subdivisions
- Departments, agencies, boards, bureaus, commissions, authorities and similar bodies of counties, municipalities and other political subdivisions
- City, county regional or other authority established by law
- Non-profits receiving 1/3 of funds from taxpayers
- Associations of counties, municipalities and school boards that receive 1/3 of funding from political subdivisions
- Records of private persons or entities performing service or function on behalf of an agency or for storage or future governmental use.
**Process for records requests**

Written request required for enforcement; custodian may be designated.

Records produced for inspection within reasonable time, not to exceed three days.

If some but not all are available within three days, rolling production is required.

If records are unavailable within three days but exist, agency must produce by three-day limit the description and timeline and provide records as soon as practicable.
Costs for records

1. Reasonable charge for search, retrieval, redaction, copying, production
2. Can’t exceed prorated hourly salary of lowest-paid qualified employee
3. Fee for copying not to exceed 10 cents a page for letter or legal copies
4. Other costs based on actual cost of producing or media
SOME COST CONSIDERATIONS:

- Agency is not required to charge
- Inspection is allowed; you can reproduce with your own portable device
- If it can be made available via electronic means, it should be
- No fee for review of records that take less than quarter hour to provide
- Agency shall utilize the most economical means available for producing and providing public records
Payment for records

If cost is to exceed $25 or other limit set by requester, agency may await approval by requester before proceeding.

If cost is to exceed $500, agency may insist on pre-payment of costs prior to producing records.

If requester has failed to pay previously, up-front payment can be required.
DATA AND COMPUTER RECORDS:

- Agencies’ use of electronic record-keeping shall not erode the right to public records.
- Agencies must produce electronically unless requester prefers print or copying is needed for redaction.
- Inputting range, filter, search information is not “programming” or “creating new record” if using existing programs used by agency.
Open Records

DATA AND COMPUTER RECORDS:

- Requester may ask for electronic records, data and data files in standard export formats
- For email and other electronic records, requester should provide specifics such as name, title and databases if possible
- Agency may put records on website, but that should not override request for underlying data
DATA AND COMPUTER RECORDS:

- If agency contracts with private vendor, the arrangement shall not impede public record access
EXCEPTIONS: ALL REMAIN, INCLUDING

- Individual personal info: social security number, bank account, medical records, tax info, mother’s maiden name, credit reports, military discharge, cellphone, personal email

- Employee protections apply to retirees

- Exemptions do not apply to records that do not specifically identify public employees by their jobs, titles or offices.
EXEMPTIONS: ALL REMAIN, INCLUDING

- Records to protect the vulnerable: rape victims, children, confidential informants, whistleblowers, HIV patients, in certain circumstances (Some exceptions for media using affidavit)
- Stuff restricted by the feds, including HIPAA, FERPA
Open Records

EXEMPTIONS: ALL REMAIN, INCLUDING

- Property acquisition, until completed or closed (but vote must be taken in public)
- Pending investigation, until closed case or final appeal
- Trade secrets, if corporation designates in advance
Open Records

EXEMPTIONS: ALL REMAIN, INCLUDING LEGAL

- Attorney client privilege
- Attorney work product
- Does not include facts of an investigation conducted on behalf of agency by attorney once litigation is concluded or in absence of litigation
- Pending litigation
- Pending prosecution or investigation – but not records in possession of the subject of an investigation
NEW EXEMPTIONS

- Some records of Department of Early Care and Learning
- Records of the State Department of Economic Development relating to negotiations on major projects. Within 5 days of binding commitment, state must give notice on website and legal ad; records become open.
- Some records related to “Quickstart” training program for economic development projects.
Open Records

OTHER KEY CHANGES:

- Requests must be accepted by email if email is regularly used
- Absence of designated custodian cannot delay request
- Strong preamble
ENFORCEMENT AND PENALTIES:

- Criminal standard is knowingly and willfully violating the law
- Civil standard is negligently violating the law
- Fines of up to $1,000 for first violation and up to $2,500 for subsequent violations
- Recovery of reasonable attorneys fees allowed
Open Meetings

WHAT’S OPEN:

• City councils
• County commissions
• Regional development authorities
• Library boards
• School boards
• Commissions or authorities established by state or local government
• Committees of government
• Planning commissions
• Zoning boards
• Most committees of university system
• Non-profit corporations operating public hospitals
• Non-profits receiving 1/3 of funds from taxpayers
WHAT’S NOT COVERED:

- Georgia legislature and committees (open by tradition except conference committees)
- Judicial proceedings (open by common law)
- GBI, Pardons and Parole
- Inspection of physical facilities or property
- Statewide or regional training meetings
- Meetings with legislative and executive branch in state or federal offices
- Travel to a meeting, so long as no business conducted
- Civic, ceremonial functions, so long as no business conducted
- Medical committees and some meetings of hospital authorities
- Mediation
Open Meetings

REASON FOR EXECUTIVE SESSION:

- Attorney-client discussion pertaining to pending litigation, settlement discussions or judicial actions
- Personnel matters including interviewing agency heads
- Discussion of records exempted from public records law if no reasonable way to discuss without disclosing
- Real estate acquisition except final vote must be public
- Settlement negotiations except final vote must be public
- Interviews for executive heads of agencies
Majority vote of quorum required with reason specified

Minutes kept during exec session for possible challenge

Continued out-of-order discussion causes adjournment of executive session

Votes must be made in open session

Affidavit must be filed
Open Meetings

OTHER KEY CHANGES:

- Time to challenge a meeting extended up to as much as six months after illegal activity
- All votes must be taken in public, including property votes
- Teleconference allowed in emergency but must be open
ENFORCEMENT AND PENALTIES ARE THE SAME AS FOR RECORDS
Hiring and Discipline

- Candidates for executive heads can be secret until 14 days before vote; at that point up to three finalists (and associated records) must be made public.
- Interviews can be private.
- Period for college presidents is 5 days, not 14.
- Disciplinary records are open ten days after presented to an agency or officer for action or investigation closed.