

NORTH CAROLINA  
COMMISSION<sup>ON</sup><sub>THE</sub>

ADMINISTRATION  
OF LAW & JUSTICE

# OPEN MEETINGS, PUBLIC RECORDS, CONFLICTS OF INTEREST, GIFTS AND FAVORS

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# MEETINGS OF PUBLIC BODIES (OPEN MEETINGS) N.C.G.S. CHAPTER 143, ART. 33C

- Public policy of North Carolina that
  - public bodies that administer the . . . advisory functions of the State are to conduct their business openly.
  
- Public body is
  - An elected or appointed . . . Commission;
  
  - Consisting of two or more members; and
  
  - Authorized to exercise an . . . advisory function.

# MEETINGS OF PUBLIC BODIES (OPEN MEETINGS)

## N.C.G.S. CHAPTER 143, ART. 33C

- Official meetings of public bodies are
  - Meeting, assembly, or gathering together;
  - A majority of the members of the public body; and
  - For the purpose of conducting hearing, deliberations, or otherwise transacting the public business of the public body.
  
- Meetings of public bodies include meetings conducted
  - In person; or
  - By electronic means—conference calls, video conferencing.

# MEETINGS OF PUBLIC BODIES (OPEN MEETINGS)

## N.C.G.S. CHAPTER 143, ART. 33C

- Public bodies must maintain full and accurate minutes of all of its meetings.
  - Reporters assigned to all of your meetings
  
- What does this mean for you as members of the Commission?
  - The Chief Justice's Commission on the Administration of Law and Justice is a public body.
  
  - Your meetings are open to the public.
  
  - Members of the public are entitled to attend your meetings, even those meetings conducted electronically.

# PUBLIC RECORDS

## N.C.G.S. CHAPTER 132

### ■ What is a public record?

- ALL documents, papers, letters, maps, books, photographs, films sound recordings, magnetic or other tapes electronic data-processing records, artifacts, or other documentary material . . . regardless of physical form or characteristics,
- made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.

# PUBLIC RECORDS

## N.C.G.S. CHAPTER 132

- Agencies of North Carolina government include appointed commissions.
- The records of the Commission, with limited exceptions, are “the property of the people”.
- Records include all documents provided to the Commission and its members, minutes of your meetings, initiatives recommended and reports of the Commission.
- Records created by the Commission, with limited exceptions, are available for the public to review.

# PUBLIC RECORDS

## N.C.G.S. CHAPTER 132

- The Commission and its employees are custodians of public records.
  - Every custodian or public records **shall** permit any record in the custodian's custody to be inspected and examined;
  
  - at **reasonable** times and under **reasonable** supervision;
  
  - by any person; and
  
  - **shall**, as promptly as possible, furnish copies thereof **upon payment of any fees** as may be prescribed by law.

# PUBLIC RECORDS

## N.C.G.S. CHAPTER 132

- What does this mean for you as members of the Commission?
  - The public has the right to review all records related to the work of the Commission, including documents, emails, recorded, and videotaped records.
- The Commission and its staff are required, upon request, to provide copies of records to anyone who requests the records.



# CONFLICTS OF INTEREST NC ETHICS ACT, CHAPTER 138A

- Covered persons, like many of us in this room, are subject to State Ethics Act.
  - Covered persons include legislators, public servants, judicial officers.
  
- Conflicts
  - an actual or perceived conflict of interest,
  
  - between public servants and third parties that want to do business with the State.
  
- Public servant [including extended family] is prohibited from receiving a financial benefit or gift from third party seeking to do business with the State.

# GIFTS AND FAVORS

## N.C.G.S. §14-234

- This is a criminal law and anyone violating the law “shall be guilty of a Class 1 misdemeanor.”
- Applies to public officers and state employees.
  - Public officers are elected or appointed persons to a public agency such as the Commission.
- Applies to public officers and state employees involved in making a contract if a member of a commission, whether or not the public officer actually participates in the action.

# GIFTS AND FAVORS

## N.C.G.S. §14-234

- Public officers and state employees may not
  - receive a direct benefit from the contract;
  - influence anyone involved in making or administering contracts; or
  - solicit or receive any gift, favor, or promise in exchange for recommending or influencing the award of a contract.

# CONFLICTS OF INTEREST & GIFTS AND FAVORS

- What does this mean for you as members of the Commission?
  - Members and employees will know about the recommendations of the Commission.
  - The recommendations may lead to contracts for purchase of goods or services, from a vendor you know or represent.
  
- Recognize that members and employees may refuse a request to meet with a vendor or to review specifications for a proposed contract.
  - It is not personal.

CONSIDERING HOW NORTH CAROLINA COURTS  
CAN BEST MEET INSTITUTIONAL NEEDS  
AND 21<sup>ST</sup> CENTURY PUBLIC EXPECTATIONS