

# NORTH CAROLINA SUNSHINE LAWS

Sunshine  
Center of the  
N.C. Open  
Government  
Coalition

June 13, 2014

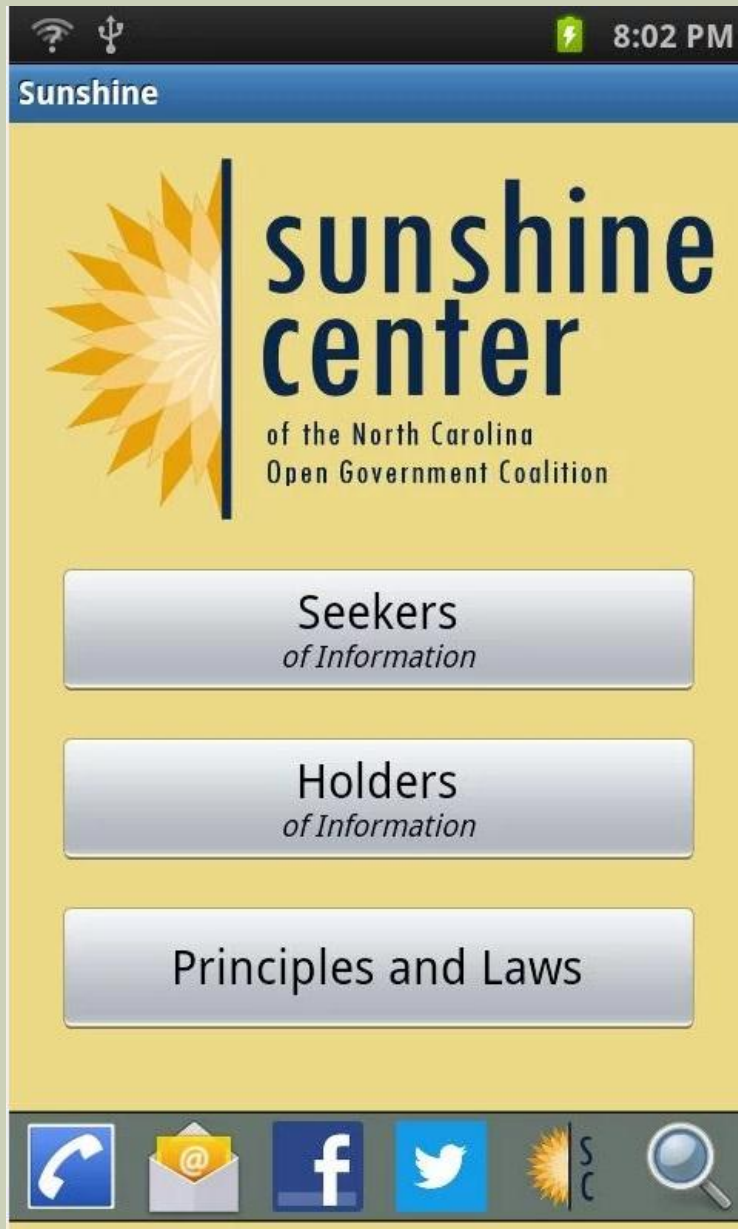
# N.C. OPEN GOVERNMENT COALITION



McGUIREWOODS



The Charlotte Observer



## SUNSHINE APP

It's free.

Quick answers to records and meetings questions for people seeking information from the government and those holding government information.

Search "NC Sunshine Center" in your app store to download.

# NORTH CAROLINA PUBLIC RECORDS LAW

- **NCGS 132-1 Defines Public Records**

- (a) "Public record" or "public records" shall mean 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. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

# NORTH CAROLINA PUBLIC RECORDS LAW

## ■ NCGS 132-1

- (b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

# EXEMPTIONS – THERE’S A LOT OF ’EM

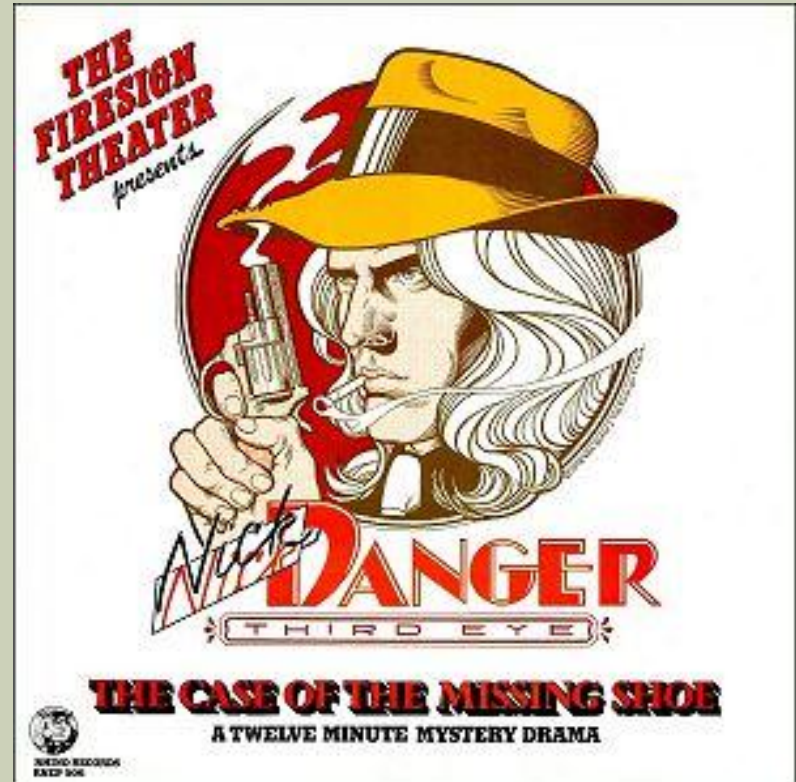
- **What’s not covered**
  - Confidential communications by attorneys to public agencies
  - Certain tax information
  - Criminal investigations
    - Except:
      - Time, date & location of incidents
      - Name, sex, age, address, employment, and charges of those arrested
      - Circumstances surrounding an arrest
      - 911 Calls & police communications
      - Victim’s identity,
  - Trial preparation materials
  - Autopsy photos
  - Social Security Numbers
  - Economic development incentives

# EXEMPTIONS CONTINUED

- Email listservs – open to inspection but not copying
- Emergency response plans
- Public security information
- Personnel records
  - Except:
    - Name:
    - Age:
    - Date of hire:
    - Current position:
    - Salary:
    - Date of most recent promotion, demotion, transfer, suspension, separation or other change:
    - Reasons for promotion:
    - Date and type of dismissal, suspension or demotion for disciplinary reasons
    - Copy of written notice of dismissal:

# COMMON ISSUES

- Email
  - Clearly falls within definition of public record
  - Even when using private email service, if conducting public business
  - Some room for exclusion of personal emails





# COMMON ISSUES



- No fees for examination
- Actual costs for copying – does not include staff time
- Special service charge for “extensive” requests

# COMMON ISSUES

- Seeker does not have to identify himself or herself
- Seeker does not need to be a North Carolina resident
- Seeker does not have to explain his or her purpose



# PUBLIC SCHOOLS & FERPA



- **Family Educational Rights & Privacy Act**
  - Education records
    - Grades
    - Discipline
  - Right of inspection
  - Funding loss is the penalty
  - Does not cover
    - Parking tickets
    - Football coach's cell phone
    - Campus crime
    - Directory information

# NORTH CAROLINA OPEN MEETINGS LAW

## ■ Whose covered?

- Elected or appointed bodies that;
- Have legislative, administrative, quasi-judicial or advisory functions

## ■ What's covered?

- Any simultaneous communication of a majority of members

## ■ What's exempt?

- Attorney-client privilege
- Business expansion
- Real estate and employment contracts
- Specific personnel discussions
- Criminal investigations
- Emergency response plans
- Public safety

# RESOURCES

- N.C. Open Government Coalition: [www.ncopengov.org](http://www.ncopengov.org)
  - Hotline: 336-278-5506
  - Email: [ncopengov@elon.edu](mailto:ncopengov@elon.edu)
- N.C. Department of Justice: [www.ncdoj.com/Top-Issues/Public-Integrity/Open-Government.aspx](http://www.ncdoj.com/Top-Issues/Public-Integrity/Open-Government.aspx)
  - “Guide to Open Government and Public Records”
- The G.S. 132 Files: [ncrecords.wordpress.com](http://ncrecords.wordpress.com)
- Coates Canons: [canons.sog.unc.edu](http://canons.sog.unc.edu)

# MORE RESOURCES

- N.C. Media Law Handbook: [www.ncmedialawhandbook.com](http://www.ncmedialawhandbook.com)
- David M. Lawrence, “Open Meetings and Local Governments in North Carolina – Some Questions and Answers, 7<sup>th</sup> ed. (2008)
- David M. Lawrence, “Public Records Law for North Carolina Local Governments, 2d ed. (2009)

QUESTIONS?



**sunshine  
center**

of the North Carolina  
Open Government Coalition