

Open records -- allowing greater public access

Access to public records is key to a healthy democracy, regardless if these records are maintained by state, county, school or municipal employees. If government is allowed to keep public records secret, then the public does not have important information to use in supporting or opposing issues and projects. Sometimes officials attempt to hide embarrassing details or mistakes from the public. Some public officials have been caught stealing public money.

Electronic records should be accessible to the public.

Members of the public who are asking for public records are finding access to E-mail records to be a challenge. E-mail has been increasingly used to conduct the public's business. Public officials have used private E-mail accounts to conduct the public business and then denied the public access to the records. Likewise, public officials have been known to delete E-mail records which obviously has made those records unavailable. E-mail is just like any other public record or paper document. Consequently, the Iowa Chapter supports the following changes to Iowa's open records law:

- All E-mail correspondence is subject to the open records laws.
- Private E-mail accounts that are used by public officials for public business are subject to the open records law.
- Government entities are responsible for retaining a depository of all E-mail sent to, from and between public officials, including E-mail that the public official deletes.
- If electronic records are difficult to retrieve for public viewing, the agency needs to acquire better storage and retrieval software. There is no excuse that public records cannot be made available because the electronic system is difficult to use. Open records are necessary for open government; public records must be publicly available.
- When citizens are given electronic copies of E-mail records, they should also be provided the software to access and read those messages or instructions to access a no-cost reader.

Requesting public records should be easy

Citizens should be able to request public records in person, via the telephone, via e-mail, or via a hardcopy letter. Furthermore, it should not be mandated that records request be made via an on-line program.

Costs for records should be reasonable.

Citizens are entitled to copies of the public records. The cost for copying the records should be reasonable, not excessive and not at a profit to the agency. Some entities have been charging exorbitant rates for record searching, redaction, or copying



Eagle. Photo by Nick Graceffa.

fees, in essence penalizing the public who wants to view the records. The Chapter believes that the cost to the public for copies should be close to \$0.

Use a public input process when creating new exemptions to open records.

Currently, more than 70 types of records are exempt from open records in the Iowa Code. The Chapter supports exemptions that protect the privacy of individuals, such as medical records. Exemptions are created by the legislature after government agencies and officials complain. Currently the exemptions are created with little or public debate.

Any future additions to the open records exemptions should be made after a public input process. Existing exemptions should be re-examined and retained only if they protect personal privacy.

Draft documents should be available to the public.

The 2012 Legislature passed a law that made draft documents exempt from disclosure under the open records act. The Chapter believes that draft documents need to be open to the public. Therefore, the exemption put into effect in 2012 needs to be repealed. By the time a document is presented to the public in its final draft, it is often too late for changes and, thus, becomes the final version and is a done deal. Draft documents also point out how an agency manipulates its decision; early versions show how the decision and conclusions are determined. Iowa Chapter members have detected complete reversals of decisions from one draft document to a later version and have discovered sections of earlier drafts that are completely removed, watered down or massaged in later drafts. Further, an agency can cover mistakes or can hide actions simply by designating a document as a draft. Government agencies work best in the sunlight of full disclosure, not in hiding behind drafts that cannot be disclosed to the public.

Existence of a copyright in itself should not deny public access to the records

Those items in government files that hold a copyright should be available for public examination and copying, if they are not otherwise exempt from public access.

The public should be aware of meetings related to incentives to industries.

The Iowa Chapter believes that the exemption for “Iowa Department of Economic Development information on an industrial prospect with which the department is currently negotiating” should be deleted. See Section 22.7(8) of the Iowa Code. These industries are often harmful to the environment and the public needs to know what incentives are being given to the industries that would adversely impact the environment. The public needs to be aware of these negotiations so that they can effectively participate in the public process before the agreements are cast in stone.

“A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce, or a tragedy, or both.”

- James Madison