

VIRGINIA FREEDOM OF INFORMATION ACT



**Maria J.K. Everett, Executive Director
VA Freedom of Information Advisory
Council**

OPEN MEETINGS LAW

PURPOSE



- SINGLE BODY OF LAW
- EVERY DAY APPLICATION OF *"GOVERNMENT OF, BY AND FOR THE PEOPLE"*
- PREDICTABLE BEHAVIOR BY GOVERNMENT
- PROCEDURES TO BE FOLLOWED

FOIA IS A BALANCE



RIGHT OF ACCESS

VERSUS

NEED OF
GOVERNMENT
TO FUNCTION

WHAT IS A “MEETING”

- *ANYTIME*
 - GATHERED/SITTING AS A BODY
 - 3 OR MORE INFORMALLY ASSEMBLED AND THE DISCUSSION OF PUBLIC BUSINESS
 - ANY SUBCOMMITTEE OF THE BODY
 - A QUORUM IF LESS THAN 3

NOT A “MEETING” IF...

- **NOT** PREARRANGED TO DISCUSS PUBLIC BUSINESS
- **NO** PURPOSE IS TO DISCUSS PUBLIC BUSINESS



- A GATHERING OF PUBLIC EMPLOYEES

MEETINGS

1. NOTICE TO THE PUBLIC
2. OPEN TO THE PUBLIC
3. MINUTES



NOTICE

- AT LEAST 3 WORKING DAYS PRIOR TO REGULAR MEETING
- REASONABLE NOTICE FOR SPECIAL OR EMERGENCY MEETINGS — *NOTIFY PUBLIC WHEN BODY KNOWS*
- *POSTED IN PROMINENT PUBLIC LOCATION AND IN THE OFFICE OF THE CLERK*

PERSONAL NOTICE



- ANNUAL REQUEST BY CITIZENS
- EMAIL, TELEPHONE, MAIL

CLOSED MEETINGS

- PROPER MOTION REQUIRED
 - PURPOSE
 - SUBJECT
AND
 - CODE CITE
- MUST HAVE ALL THREE ELEMENTS

CLOSED MEETINGS

- KEEP ON TOPIC AS STATED IN MOTION
- STRAW VOTES ALLOWED
- CERTIFY IN OPEN SESSION
- VOTE IN OPEN SESSION



MINUTES

- DATE, TIME AND LOCATION
- MEMBERS PRESENT AND ABSENT
- SUMMARY OF MATTERS
 - DISCUSSED
 - PROPOSED
 - DELIBERATED OR
 - DECIDED
- VOTES TAKEN

ENFORCEMENT

- **FAILURE TO FOLLOW FOIA DEEMED VIOLATION.**
- **FOIA SUIT BY AGGRIEVED PARTY**
- **BURDEN OF PROOF ON GOVERNMENT**
-

PENALTIES



- PAY LEGAL BILLS OF PETITIONER
- MANDAMUS OR INJUNCTION
- BAD PRESS

PENALTIES

“KNOWING” AND “WILLFUL” VIOLATIONS



- UP TO \$1,000 FOR 1ST VIOLATION.
- UP TO \$2,500 FOR ANY SUBSEQUENT VIOLATION.
- PAID BY VIOLATOR, NOT THE GOVERNMENT!

ADVISORY OPINIONS

- VIRGINIA
FREEDOM OF
INFORMATION
ADVISORY
COUNCIL

- ATTORNEY
GENERAL



REMEMBER

- CALL FOIA COUNCIL WITH *ANY* QUESTIONS.
 - SET “INSTITUTIONAL CULTURE” FOR COMPLIANCE WITH FOIA.
 - IT IS NOT OUR INDIVIDUAL SENSE OF FAIRNESS, BUT THE COLLECTIVE SENSE EXPRESSED IN THE LAW.
 - COMPLIANCE WITH THE LAW IS NEVER NEWSWORTHY



FOIA COUNCIL

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