Where You Stand is Where You Sit: The Multifaceted View of the Public Records Act

LIVE and WEBCAST
Friday, November 16, 2018
North Carolina Bar Center
8000 Weston Parkway
Cary

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www.tinyurl.com/CLE795PRP
The Public Records Act allows citizens and groups a right to access government information, but this ideal can often conflict with reality. The phrase “Where you stand is where you sit” captures the idea that the world looks different depending on where you are viewing it from, and one’s vantage point can lead to the polarization of “us” versus “them.”

This program about the Public Records Act starts out with a statutory and case law update and moves into a day full of learning and discussion of viewpoints. Topics include:

- North Carolina Guide to Open Government and Public Records
- Covering legal fees
- Legitimate information requests
- Use of third-party vendors
- Law enforcement and public safety records

Come sit (or stand) with us on Friday, November 16, as we all learn new ways to view the complex Public Records Act. You may end up changing seats before the end of the day!

WHAT PEOPLE ARE SAYING...

“Overall, this was a well thought out CLE. All speakers provided excellent information.”

— Attendees, 2017 Joint Program of the Administrative Law and Government & Public Sector Sections
AGENDA

FRIDAY, NOVEMBER 16, 2018 | 8:15 a.m. – 4:45 p.m.

8:15 Registration and Continental Breakfast
8:55 Welcome and Introductions | Gray
9:00 Statutory and Case Law Update | Bluestein
The Public Records Act is ever-evolving. Join the UNC School of Government’s leading expert for an update on recent changes.
9:45 Unveiling the Wall of Transparency | Attorney General Stein and Woods
It has been 10 years since the Attorney General’s Office first created a comprehensive guide for Public Records Act requests. The Governor’s Office released its new request guidelines in mid-July and Attorney General Josh Stein is poised to release an updated version. Learn how state agencies are instructed to respond and what is in the latest version of the AG’s guidelines.
10:30 Break
10:45 Who Pays (and Who Should) | Engstrom
A recent law review article by the former Elon Law School Legal Method and Communication Fellow analyzes NC’s law and how it leaves open to interpretation who should cover the costs of legal fees when a person sues the government for lack of transparency. Hear about NC’s Public Records (and Open Meetings) Act fee-shifting provisions in the larger national context.
11:30 Networking Lunch
12:15 “Free Discovery” or Legitimate Request: Responding to the Tiedious, Complex and Harassing Request | Payne
It seems that the state’s public records laws are being used more and more for reasons beyond their intended purpose of facilitating open, transparent governance. Requests are made to determine if a cause of action exists, or to harass government or the people who use its services. The story of one county in particular that had to seek legislative relief to curb abuse is explored, as well as broader issues.
1:15 Panel Discussion: A Public Records Act Wish List | Currin, Gray and Martin | Moderator: Kalfas
Practitioners often develop a list of changes they believe should be made to the statutes they rely on daily. Government, public sector and administrative lawyers are no different. Two long-term government attorneys and one of the state’s leading experts on media law talk about their wish lists.
2:15 Break
2:30 Ambiguities of Third-Party Vendors | Tufts
With the evolution of storage methods for vast amounts of paper and electronic records, government entities are moving towards third-party vendors. Handing over physical custody of records that lawfully belong to “the public” presents its own legal ambiguities. Get answers to questions about companies that archive these files offsite and often have contract terms that do not coincide with the Act.
3:15 The Challenges of Law Enforcement and Public Safety Files | Currin
Law enforcement and public safety records have unique challenges, but body-worn camera footage and government-owned cameras watching everything from parks to buildings to traffic intersections add another dimension to existing public records laws. Asheville has had its share of those issues; hear about lessons learned.
4:15 The Duty to Respond with It All* | Oten
It is difficult as an attorney to hand over a document you know is damaging to your client, but a Public Records Act request is like a discovery request; you have a legal and ethical obligation to disclose. The State Bar’s Ethics Counsel reminds us of our obligations under the Rules of Professional Responsibility.
4:45 Adjourn

* Indicates portion providing Ethics/Professional Responsibility credit
SPEAKERS
- **Attorney General Joshua H. Stein**, North Carolina Department of Justice, Raleigh
- **Frayda S. Bluestein**, UNC School of Government, Chapel Hill
- **Robin T. Currin**, City of Raleigh, Raleigh
- **Elliot M. Engstrom**, Cleveland County, Shelby
- **Jeffrey P. Gray**, Bailey & Dixon LLP, Raleigh
- **C. Amanda Martin**, Stevens Martin Vaughn & Tadych PLLC, Raleigh
- **Brian P. Oten**, North Carolina State Bar, Raleigh
- **Mark Payne**, Guilford County Attorney, Greensboro
- **Shannon H. Tufts**, UNC School of Government, Chapel Hill
- **Narcisa I. Woods**, North Carolina Department of Justice, Raleigh

MODERATOR
- **Nahale F. Kalfas**, Solo Practitioner, Durham

SPECIAL ACCOMMODATIONS
NCBA makes every effort to ensure a quality learning experience. If you have dietary restrictions or need special accommodations, please contact us at least one (1) week prior to the program start date.

CLE AND PUBLICATION SCHOLARSHIPS
Full and partial scholarships are available for attorneys experiencing a financial hardship of any kind.

We extend our sincere gratitude to the NCBA Administrative Law and Government & Public Sector Sections as well as the planner and speakers who volunteer their time and expertise toward the goal of presenting an educational program of the highest quality.

HOTEL INFORMATION
Contact hotels directly for reservations at the special NCBA room rate. Rates are based on availability and rooms may sell out.

**Embassy Suites**
201 Harrison Oaks Boulevard, Cary
- **Nightly Rate**: $169 single/double
- **Reservations**: 919.677.1840 or www.tinyurl.com/NCBA-Embassy
- **Corporate Account Code**: 2691626

**TownePlace Suites by Marriott**
120 Sage Commons Way, Cary
- **Nightly Rate**: $114 studio queen with sleeper sofa (Sunday–Thursday)
- **Reservations**: 919.678.0005
- **Ask for the NCBA corporate rate.**

PLANNERS
- **Jeffrey P. Gray**, Bailey & Dixon LLP, Raleigh
- **Nahale F. Kalfas**, Solo Practitioner, Durham
Register today!

Online: www.tinyurl.com/CLE795PRP | By phone: 800.228.3402
By mail: Attn: Accounting–NCBA, 8000 Weston Parkway, Cary, NC 27513

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