

A Thumbnail Guide to the  
Maine Freedom of Access Act  
Public Records (August 2018 Revision)

**All Public Records Are Open For Public Inspection:** "Except as otherwise provided by statute, a person has the right to inspect and copy any public record...." 1 M.R.S.A. § 408(1).

**Abbrev'd List of Exemptions:**  
Records designated **confidential by statute** • records **privileged by the courts** • legislative papers and reports (until signed and publicly distributed) and records, working papers, drafts and memoranda used for legislative sessions • elected officials' communications with constituents (see list) • negotiations materials, including bargaining proposals • records,

working papers, and memoranda for faculty and administrative committees of public higher educational systems (see list) • records possessed by an association with certain entities (see list) as exclusive members that would be confidential if possessed by an agency or public official • materials regarding positions on legislation or related to insurance possessed by an association with public bodies as exclusive members • **medical records** and reports of municipal ambulance and rescue units • juvenile records and reports of municipal fire departments regarding juvenile fire setters • working papers of any advisory organization, unless distributed publicly • personally identifying information concerning minors maintained by a municipality in providing recreational or non-mandatory educational programs or services • **security plans and procedures to prevent acts of terrorism** • records describing information technology infrastructure, systems and software • social security numbers • personal contact information of public employees • geographic information regarding trails on private land • security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail (see list) • email addresses obtained by State political subdivision for disseminating non-interactive notifications • Department of Marine Resources records describing techniques for fisheries, aquaculture and seafood processing or depuration plant operation • State railroad company records describing hazardous material or emergency management • personal information used to administer community well-being check program. § 402(3)(A)-(V).

**Compliance Deadline and Remedy:** "If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide written notice of the denial, stating the reason for the denial, within 5 working days of the request..." § 408-A(4). The requester may appeal to the Superior Court within five working days from receipt of the denial. § 409(1). The Court may award attorney's fees. § 409(4).

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Open Meetings (August 2018 Revision)

**Meetings Must Be Open:** "[A]ll public proceedings must be open to the public and any person must be permitted to attend...." 1 M.R.S.A. § 403(1). Notice must be given of meetings with 3 or more persons. § 406.

**"Public proceedings" defined:** "Public proceedings" are "the transactions of any functions affecting any or all citizens of the State." § 402(2). The proceedings are public when they are carried out by the Legislature; any board or commission of any state agency or authority; boards of trustees of the public higher education systems; any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; full membership meetings of any association composed exclusively of public bodies; board of directors of nonprofit corporations providing statewide noncommercial public broadcasting services; advisory organizations established by the Governor unless exempted; and meetings of associations promoting, organizing, or regulating interscholastic activities in public schools, or receiving funding from public/private school members. §402(2)(A)-(G). Proceedings of committees and subcommittees of many bodies are often open, as are proceedings of Indian tribes acting in municipal capacities

**Abbreviated List of Permitted Executive Sessions:** Only discussions of the following matters may be deliberated in closed sessions: the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees, or employees or of investigations/hearings (except budget proposal discussions); (B) a student suspension or expulsion (among a school board); (C) the condition, acquisition or the use of real or personal property, if premature disclosure would prejudice the agency; (D) public agency labor contracts and proposals; (E) legal rights and duties of the body or agency [or] pending or completed litigation (between a body or agency and its attorney); (F) information contained in records when access by the general public to those records is prohibited by statute; (G) the content of licensing, permitting or employment exams; (H) pending enforcement matters between municipal officers and a code enforcement officer. § 405(6)(A)-(H). See the statute for limitations on these exceptions.

**Minutes:** "Unless otherwise provided by law, a record of each public proceeding for which notice is required . . . must be made within a reasonable period of time after the proceeding and must be open to public inspection." At minimum, the record must include (1) the date, time and place of public proceeding, (2) the members of the body recorded as absent or present, (3) all motions and votes taken, by individual member, if there is a roll call." § 403(2).

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*This summary of law is not a substitute for legal advice. Consult the full statute for details.*

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