

Public Records in North Carolina

Public Records Law Overview

North Carolina's public records law provides a broad right of access to records of public agencies. The main statutes that define the scope of the law are contained in Chapter 132 of the North Carolina General Statutes (hereinafter G.S.). Many exceptions and other laws that deal with public records can be found in other chapters. The School of Government publication *Public Records Law for North Carolina Local Governments* (2nd ed., 2009), by David M. Lawrence, provides a comprehensive guide to these laws and their interpretation by the courts.

As an introduction to this topic, the following list provides a summary of some of the most important basic concepts for understanding the law.

- The law applies to records made or received in connection with the transaction of public business.
- The law applies to all types of state and local government agencies, and all types of records, including paper and electronic records, recordings, films, videos, and photographs.
- A record that falls within the scope of the statute is subject to public access unless an exception provides otherwise.
- North Carolina courts have been unwilling to recognize exceptions to the law that are not found in existing statutes.
- The statutory exceptions to the right of access fall into one of two categories: (1) confidential records, which the public agency is *prohibited* from releasing except under specified conditions, or (2) nonpublic records, to which there is no right of access but which the public agency *may* release in its discretion.
- The status of a record under the law is determined based on its content, not its location.
- Personal records (not related to the transaction of public business) are not public records, even if they are created using government resources. Records related to the transaction of public business are public, even if they are created using private resources.
- The right of access includes the right to inspect and obtain copies (although a few specific provisions limit some element of access for particular types of records¹).
- Anyone can request access; the right is not limited to citizens or constituents of the agency.
- State law limits a public agency's authority to charge for providing access to records, in most cases allowing a charge only for the actual cost of the paper or other medium, if any, on which copies are provided.
- Requirements for retention of public records are governed by rules promulgated by the State Division of Archives and History, Government Records Branch. These rules apply based on the content, not the form of the record. For example, there is no general rule for retention of email. Instead, the requirements for email records will vary depending on the content of the email.

Scope of the Public Records Law

G.S. 132-1 establishes a broad definition of public record, and G.S. 132-6 entitles any person to examine and

1. See, e.g., N.C. Gen. Stat. (hereinafter G.S.) § 132-1.13.

have a copy of any public record. The state supreme court has concluded that these statutory rights extend to all documents meeting the definition of public record, unless the General Assembly has enacted a statute that limits or denies public access to a category of record.² As a result, the great bulk of material held by local governments in North Carolina is public record and therefore open to public access. Financial records, leases and contracts, insurance policies, reports, agency minutes, permit applications, emails, and information in computer databases are all examples of records that generally must be made available to the public upon request.

The definition of “public record” under the statute is quite broad and generally not limited by the form of the material in question or by the circumstances under which it was received or created. The statute begins by including within the definition not only documents and other papers but also “maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, [and] artifacts, . . . regardless of physical form or characteristics.” It then goes on to state that the term includes the listed items “made or received pursuant to law or ordinance in connection with the transaction of public business.” Litigants have sometimes argued that the latter part of the definition—“made or received pursuant to law or ordinance”—is limiting and that only those records whose receipt is specifically required by statute or local ordinance are public records. The court of appeals rejected such a limiting reading in *News and Observer Publishing Co. v. Wake County Hospital System, Inc.*,³ holding instead that the term includes any material kept in carrying out an agency’s lawful duties. Given its own public records decisions, the state supreme court has obviously accepted the same broad reading of the statute.⁴ In addition, the supreme court has held that the term includes preliminary drafts of documents and that a person need not wait until a record is finalized in order to examine it or have a copy.⁵

G.S. 132-1 extends the reach of the public records statute to every agency of state and local government in North Carolina. The section defines the covered agencies to 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.” Thus at the local level the law extends to counties, cities, school administrative units, community colleges, special districts, such as sanitary districts and metropolitan sewerage districts, and public authorities, such as water and sewer authorities, housing authorities, and drainage districts. It also extends to joint entities, such as councils of government, district health departments, area mental health authorities, regional libraries, and joint agencies established by contracts between local governments.

Personal Records Distinguished

Public employees often create records at work and use government resources that do not relate to the transaction of public business. Most commonly, perhaps, these might include email communications with family members, calendar entries reflective of personal activities, and other records of a purely personal nature. Based on the definition of “public record” under North Carolina’s statute, these types of records are not public records, since they are not made in connection with the transaction of public business. Under this definition, it is the subject and purpose of the record, rather than its location on a public or private medium, that governs its characterization as a public record. Although North Carolina case law has not addressed this issue to date, courts

2. *News and Observer Publ’g Co., Inc. v. Poole*, 330 N.C. 465, 412 S.E.2d 7 (1992).

3. 55 N.C. App. 1, 284 S.E.2d 542 (1981).

4. *E.g.*, *Poole*, *supra* note 2.

5. *Id.*

6. *See City of Ontario, California, et al., v. Quon et al.*, No. 08-1332, 2010 U.S. LEXIS 4972 (U.S. June 17, 2010).

in other states have held that documents that are personal in nature do not become government records simply because they are found in a government office or on a government computer.

While personal records made on government-owned devices are not subject to general public access, they may be subject to access by the employer (the government agency). Inappropriate or excessive use of email for non-work-related purposes may violate local policies and could therefore become the basis for a personnel action. Policies governing use of government resources may provide the governmental employer (though not the general public at large) with legal access to material created by local government employees using public resources. Government access to and use of this personal information is limited by constitutionally protected privacy rights, which in turn are affected by the policies and practices in place within each specific jurisdiction.⁶

Records versus Information

The theory of the public records law is that when a government maintains records for its own operational purposes, the public enjoys a general right to inspect and copy those records (subject, of course, to statutory exceptions). But in general the public has no right to demand that a government maintain records that the government has no need for itself or to demand that a government maintain records in a way that facilitates use of the records by others if that use is unimportant to the government. Courts usually express this principle through the statement that the public records law does not require a government to create new records, and the General Assembly has affirmed this point in the statute itself.⁷

There are several important exceptions to this general rule. The first occurs when a government for its own reasons combines in a single document information that is exempt from public access and information that is not exempt. Simply because the document includes confidential information does not make the entire document exempt from public inspection. Rather, it is the government's responsibility to delete (or redact) the confidential information and then make the remaining information public. In a sense this is creating a new record, but the law requires that it be done, and it requires that the agency bear the cost of doing so.⁸

The second exception involves access to personnel information. As noted below, most of the information in government employee personnel files is confidential, and local governments are prohibited from releasing such information except in limited circumstances. The statutes that govern access to personnel files, however, contain a list of *information* within those files that is open to the public. Because of the specific wording of these statutes, the public agency's obligation is to provide the *information* requested (such as list of employee salaries or list of position changes for a particular employee), even if such a list does not exist as a separate record at the time of the request.

The Right of Access

Form of the Request

G.S. 132-6 accords the rights of inspection and copying to "any person," and there is no reason to think that the quoted words are limiting in any way. The rights extend both to natural persons and to corporations and other artificial persons (such as associations, partnerships, and cooperatives). And they extend both to citizens of the government holding the record and to noncitizens. Furthermore, as a general rule a person's intended use of the records is irrelevant to the right of access, and the records custodian may not deny access simply because of the intended use. Indeed, G.S. 132-6(b) *prohibits* custodians from requiring that persons requesting access to or a

7. See G.S. 132-6.2(e) ("Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist.").

8. G.S. 132-6(c).

copy of a record disclose their purpose or motives in seeking access or the copy.

There is no specific authority to require that requests be in writing or that a requester identify him- or herself in order to obtain access. There are legitimate practical reasons to request and document requests in writing, but it is important for public agencies to recognize their lack of authority to condition access on the requester's completion of such documentation.⁹

Form in Which Records Are Provided

Public agencies must provide records in the form in which they are requested, so long as the agency has the capacity to do so. Under G.S. 132-6.2(a), persons requesting copies “may elect to obtain [the records] in any and all media in which the public agency is capable of providing them. No request for copies of public records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium.” The records may be certified or noncertified, at the option of the person making the request.

Time for Response

North Carolina's public records law requires custodians of records to allow public records to be inspected “at reasonable times and under reasonable supervision” and copies to be provided “as promptly as possible.”¹⁰ The law does not set a specific time within which an agency must respond. What constitutes a reasonable or prompt response will depend on the nature of the request and the available personnel and other resources available to the agency that receives the request. A prompt response to a fairly simple records request ranges from immediate, within a few hours, or within a day or two. As the request becomes more substantial, however, and the burden on the custodian becomes correspondingly greater, it seems reasonable to allow the custodian somewhat more time to locate and deliver the desired records. Among factors that might appropriately delay granting access are the number of records requested, whether they are located in multiple or remote sites, how large the public agency is, and whether any part of the records must be redacted. Unless a request is extraordinary, however, a custodian probably should respond within a week or two at most.

Electronic Records and Metadata

As previously noted, the public records law applies to electronic records of all kinds, including word documents, email, text and voice mail messages, spreadsheets, and other electronically stored data. An emerging and as yet unclear aspect of the law deals with the extent to which the right of access extends to information that is embedded in electronic records. The term “metadata” is used to describe this type of information, which can range from email information that is automatically created (such as date and time information) to changes that can be seen in earlier versions of a document, to file name and other embedded data automatically created by computers and applications.¹¹ Although it's clear that a public agency must provide records in electronic form if requested, it is not clear how much embedded information in an electronic record is considered part of the

9 . For a discussion of what policies and procedures may be implemented for responding to public records requests see Frayda Bluestein, “Ask, Don't Compel,” *Coates' Canons: NC Local Government Law Blog* (June 15, 2011), sogweb.sog.unc.edu/blogs/local

10. G.S. 132-6(a).

11. For more discussion of metadata and emerging case law involving e-discovery and public records, see Kara Millonzi, “Metadata, E-Discovery, and E-Public Records in North Carolina,” *Coates' Canons: NC Local Government Law Blog* (Sept. 15, 2011), <http://sogweb.sog.unc.edu/blogs/localgovt/?p=5432>.

record that must be provided. For example, an email from a private citizen to a city official employee may contain the citizen's email address. Must this information be provided to a person who requests a copy of the email? Neither the statutes, nor the courts have addressed this issue to date, but courts in other jurisdictions have begun to develop interpretations of these and other issues related to the status of electronic information in public records.¹²

While the North Carolina statutes do not yet address what metadata is subject to public access, the law is clear about access to programming or other information technology system data. G.S. 132-6.1(c) specifies that public agencies are *not* required to disclose security features of their computer or telecommunications systems, nor are the unit's computer passwords, system software, or codes subject to public access.

Custodians of Records

The public records law imposes a number of responsibilities on the *custodian* of public records. This official maintains public records, may bring actions to recover records improperly held by others, and is required to permit public inspection of records and provide copies of records to those who request them. G.S. 132-2 declares that the official in charge of an office that holds public records is the custodian of those records. Thus the register of deeds is the custodian of records in the register of deeds' office, the sheriff is the custodian of records held by the sheriff's department, the county assessor is the custodian of records held in the assessor's office, and so on. G.S. 160A-171, however, provides that the city clerk is the custodian of all city records. This provision should probably be interpreted as applying to general supervision over records management as well as responsibility for the official records of the unit (such as minutes and ordinances) rather than literally requiring the clerk to be responsible for all records within each department and office of the city government. Although the custodian has the legal responsibility to provide access, many records requests necessitate review by the agency attorney and other staff prior to their release.

Fees for Providing Copies

G.S. 132-6 and 132-6.2 expressly permit fees for *copies* of public records but are silent about fees for the right of *inspection* only. This silence is the common statutory pattern around the country, and courts in other states generally have held that custodians may not charge fees for mere inspection, when the custodian does no more than locate and retrieve the record and no copy is provided.

The statutes do not establish the fees that a custodian may charge for making a copy but rather give direction about the proper amount that may be charged. G.S. 132-6.2 directs that the fee be based on the *actual cost* of making the copy. The statute limits "actual cost" to "direct, chargeable costs related to the reproduction of a public record . . . [not including] costs that would have been incurred by the public agency if a request to reproduce a public record had not been made." The statute's use of "direct, chargeable costs" seems to rule out inclusion of indirect costs in determining fees for a copy. In addition, because the costs may not include costs that the agency would have incurred whether the copy was made or not, in most instances the fee may not include personnel costs; the person making the copy would have been paid whether he or she made the copy or did other work.

G.S. 132-6.2(b) authorizes public agencies to charge a "special service charge" for requests involving

12. See O'Neill v. City of Shoreline, 240 P.3d 1149 (Wash. 2010) (Email address is part of the record and must be provided if specifically requested.); Kara Millonzi, "Is Metadata a Public Record? Case Law Update," *Coates' Canons: NC Local Government Law Blog* (Oct. 21, 2010), <http://sogweb.sog.unc.edu/blogs/localgovt/?p=3417>. Note that G.S. 132-1.13 limits access to emails of subscribers to local government email lists, allowing inspection of such lists but not copying.

extensive use of information technology resources, including labor costs of the personnel providing these services. This authority appears to be limited to resources and labor associated with information technology and may not be sufficient authority for large requests that do not involve extensive use of information technology resources. Furthermore, the provision does not appear to authorize a surcharge for the labor involved in reviewing records to determine what records or parts of records may be provided.

Categories of Records Not Subject to the Right of Access

The General Statutes comprise literally dozens of statutes that create exceptions to the general right of access to public records. The following summary lists those that seem most important to local governments.

Personnel Records

A number of separate statutes exempt from public access most of the records in the personnel files of public employees.¹³ There is some variation among these statutes, but most permit the employee, as well as anyone with supervisory authority over the employee, to have access to almost everything in the employee's file; they also permit certain others access to the file in very limited circumstances. In addition, each statute contains a list of information about each employee that is public record. This list includes the employee's name, age, current salary and salary history, contract terms, original employment date, current position title and location, history of changes in position classification and disciplinary actions, and in the case of dismissal for disciplinary reasons, a copy of the final notice of dismissal, stating the reasons for the dismissal. Other information in the personnel file is confidential, and the public agency is prohibited from releasing it except under specified, limited circumstances. In addition, a number of statutes permit local governments to require criminal records checks of prospective employees, and G.S. 114-19.13 directs that the records provided by such a check are to be kept confidential.

Criminal Investigation Records

G.S. 132-1.4 establishes special rules of access to records generated while a law enforcement agency is investigating alleged or known violations of the criminal law. In general the statute denies the public any right of access to these records, with a few exceptions. The exceptions allow public access to records involving details of criminal incidents, information about persons arrested or charged, the circumstances of arrests, contents of 911 telephone calls (these may be provided with altered voice or transcribed to protect callers' identity), radio communications between law enforcement personnel, and information about victims of crime and persons who file complaints or report violations.

Legal Materials

Two statutes exempt certain legal materials from public access, though both exemptions are limited in duration. First, G.S. 132-1.1 exempts communications from an attorney to a public body in state or local government when the communications involve (1) a claim by or against the public body or the government for which it acts or (2) a judicial action or administrative proceeding to which the public body is a party or by which is it affected. This exemption, however, expires three years after the date the public body receives the

13. G.S. 153A-98 (county employees); 160A-168 (city employees); 115C-319 through -321 (public school employees); 115D-27 through -30 (community college employees); 130A-42 (district health department employees); 122C-158 (area authority employees); 131E-97.1 (public hospital employees); 162A-6.1 (water and sewer authority employees); and 126-22 through -30 (state employees).

communication. Second, G.S. 132-1.9 exempts trial preparation materials, such as documents showing the mental impressions or legal theories of an attorney or reports from consultants to be used at trial or in support of trial. Once the litigation is completed, however, this exemption ends. In addition, G.S. 132-1.3 specifies that settlement documents in any suit or legal proceeding involving a government agency are to be open to the public unless closed by court order.

Trade Secrets

G.S. 132-1.2 prohibits a government from allowing access to business trade secrets that have been shared with the government, as long as the business has designated the material as confidential or a trade secret at the time it was disclosed to the government.

Local Tax Records

Two statutes prohibit cities or counties from making public local tax records that contain information about a taxpayer's income or gross receipts.¹⁴ The kinds of local taxes that might generate such records are privilege license taxes, when measured by gross receipts, occupancy taxes, prepared food taxes, and cable television franchise taxes. In addition, some forms that must be filled out to qualify for property tax classifications—the homestead exemption and use-value taxation—also require taxpayers to reveal their income; and that information also is covered by these provisions.

Medical and Patient Records

A variety of statutes exempt from public access records about particular patients held by different sorts of health-related public agencies.¹⁵ These include records held by public hospitals, public health departments, mental health agencies, and emergency medical services providers.

Closed-Session Minutes and General Accounts

G.S. 143-318.10(c) permits a public body to seal the minutes or the general account of any closed session “so long as public inspection would frustrate the purpose of a closed session.”

Social Security Account Numbers and Other Personal Identifying and Personal Financial Information

Two statutes restrict or deny public access to information that can be used to steal a person's identity or that reveals certain sorts of financial information about a person. First, G.S. 132-1.10 prohibits government agencies from making public Social Security account numbers and other “identifying information” as defined in G.S. 14-113.20. This other information includes drivers' license numbers (except as they appear on law enforcement records), bank account numbers, bank card account numbers, fingerprints, and a few other types of similar information. Second, G.S. 132-1.1(c) exempts from public access billing information gathered or compiled as part of operating a public enterprise, such as a utility system. Billing information is defined as “any record or information, in whatever form, compiled or maintained with respect to individual customers.”

Records Involving Public Security

Several statutes exempt material from public access because of public security concerns. G.S. 132-1.7 exempts

14. G.S. 153A-148.1 (county tax records); G.S. 160A-208.1 (city tax records).

15. G.S. 131E-97 (medical records and financial records of patients at health care facilities); 130A-12 (patient medical records held by local health departments); 122C-52 (patient medical records held by area authorities); 143-518 (medical records held by EMS providers).

from public access the specific details of public security plans and detailed plans and drawings of public buildings and infrastructure. This section also exempts plans to prevent or respond to terrorist activity. G.S. 132-6.1 exempts from public access the security features of a government's electronic data-processing systems, information technology systems, telecommunications networks, and electronic security systems.¹⁶

Contract Bid Documents and Construction Diaries

G.S. 143-131 specifies that a government's record of informal construction or purchasing bids it has received is not open to the public until the contract for which the bids have been solicited has been awarded. In addition, G.S. 133-33 permits the state and local governments to adopt rules that make confidential the agency's cost estimates for a construction project and any list of contractors who have obtained proposals for bid purposes.

Economic Development Records

G.S. 132-6(d) exempts from public access records that relate to the proposed expansion or location of specific business or industrial projects. Once the project has been announced, however, or once the company has communicated a decision not to locate or expand in the state, the exemption ends.

Social Services Records

G.S. 108A-80 and 108A-3 prohibit any person from obtaining, disclosing, or using a list of names or other information about persons applying for or receiving public assistance or other social services.

Library Records

G.S. 125-19 prohibits a public library from disclosing any record that identifies a person as having requested or obtained specific materials, information, or services from the library.

Telephone Numbers Held by 911 Systems

Several statutes prohibit local governments operating 911 systems from releasing telephone numbers received from telephone companies, except in response to an emergency.¹⁷

Framework for Responding to Public Records Requests

As this article has described, the public records law creates a broad right of access to government records. Access to records must be allowed unless an exception applies. The following framework provides a set of questions to be considered when responding to public requests for public records. The questions are set out below, followed by a brief explanation of the issues involved in answering each question.

16. See also G.S. 132-1.6, which exempts from public access emergency response plans adopted by a constituent institution of the University of North Carolina, a community college, or a public hospital.

17. G.S. 62A-9; 62B-9; and 132-1.5.

Framework Questions

1. **Does a record exist that corresponds to the request?** *If not, no disclosure is required. If so, continue to question 2.*
2. **Is the record “made or received in the transaction of public business”?** *If not, no disclosure is required. If so, continue to question 3.*
3. **Is there an exception that applies?** *If not, the requested access must be provided. If so, continue to question 4.*
4. **Does the exception apply to the entire record or only to certain information, and does it prohibit disclosure or deny right of access?** *If a prohibition applies to the entire record, do not disclose; if it applies only to certain information, redact and disclose. If there is no right of access to some or all of the information, but release is not prohibited, determine whether or not to release the entire or a redacted record.*

Framework Answers

1. **Does a record exist that corresponds to the request?**

Records can exist in many forms, but there will rarely be an issue about whether a particular record is of a type that is covered by the statute. The more significant aspect of this first question is whether a record actually exists that corresponds to the request. Sometimes public agencies receive requests for information that can be found in various records or which is known but not made part of any record. The obligation under the law is to provide access to or copies of records that exist, and the statute specifically says that a public agency is not required to respond to records requests by “creating or compiling a record that does not exist.” As noted above, requests for public information from an employee’s personnel file is an exception to this general rule.
2. **Is the record “made or received in the transaction of public business”?**

Most of the records that a public agency has do relate to the business of the agency. Records that are personal, however, are not related to the work of the agency and are not subject to disclosure under the public records law, even if they are created using government email systems or devices. This can describe a great many records, including personal emails and text messages created by public employees or officials.
3. **Is there an exception that applies?**

There are numerous exceptions to the public records law. The better part of David Lawrence’s *Public Records Law for North Carolina Local Governments* explains the various exceptions, and it is the most complete resource for information on how to interpret them. A careful assessment must be made about whether an exception covers a particular record or category of record since there must be a legal basis for refusing to provide access to records.
4. **Does the exception apply to the entire record or only to certain information, and does it prohibit disclosure or deny right of access?**

Some exceptions are described as exceptions to the right of access, though they do not prohibit the release of the records. The exceptions for criminal investigation information and economic development projects are examples of these types of exceptions. In these cases, the public agency is not required to provide the records, but it may choose to do so. Other exceptions, like those involving information in the personnel file and trade secrets, actually prohibit disclosure. In addition, there are some exceptions that have exceptions within them—that is—some exceptions identify specific information that would fall within the exception but that must nonetheless be made public. Both the personnel file and criminal investigation information exceptions contain these types of provisions. This part of the analysis requires careful attention to the various types of information that may be contained in a single record as well as a determination about whether all or part of the record is subject to public access. If an exception applies, the public agency may be allowed or even required to deny access to the entire record. In many cases, however, a particular record may contain a mix of public and nonpublic information. Depending on the

wording of the particular exception, the public agency may be required to redact or separate confidential information from other information that is public. Although the public records law applies to records, not information, it also provides that a request for access to a record cannot be denied on the grounds that confidential information is commingled with nonconfidential information. Indeed, the law requires the public agency to bear the cost of separating the information in order to comply with the request. If an exception specifically prohibits disclosure of an entire record, redaction is not required.

Remedies for Denial of Access

Individuals who have been denied access to public records may attempt a mediated settlement under G.S. 7A-38.3E and may file an action under G.S. 132-9 to compel a public agency to provide the requested records. A claimant who substantially prevails in a claim under the statute may be allowed to recover attorneys' fees from the public agency. A court is prohibited from awarding attorneys' fees, however, if the public agency acted in reasonable reliance on (1) a court judgment or decision applicable to the agency involved, (2) a published opinion or order of any North Carolina court, or (3) a written opinion, decision, or letter of the North Carolina Attorney General.¹⁸ Individuals may be personally liable for attorneys' fees only if they failed to follow advice of counsel.

Records Retention and Disposition

G.S. Chapter 132 and G.S. 121-5 together establish responsibilities for records protection and records management for two kinds of actors. The first is each custodian of one or more public records, and the second is the state Department of Cultural Resources. Together the custodians and the department are responsible for maintaining the integrity of public records and for developing a plan for the management of records in every public office or agency.

G.S. 132-3 prohibits any public official from destroying, selling, loaning, or otherwise disposing of any public record except in accordance with G.S. 121-5. That section in turn empowers the Department of Cultural Resources to decide how long particular categories of records are kept and whether and when they may be destroyed. In furtherance of that responsibility, the department has adopted a series of Records Retention and Disposition Schedules for almost all forms of records held by local governments. The department maintains current copies of its records schedules on its website.¹⁹

Once agreed to by the officials of a particular local government, these schedules govern whether various categories of records may be destroyed and when that may occur. For example, the original of all minutes of a city or county governing board must be retained permanently at the city or county offices, with a microfilmed duplicate set maintained by the department at the State Records Center. Local government contracts may be destroyed three years after their termination, if there is no outstanding litigation, while records of vehicles owned and maintained by the unit may be destroyed after one year. Records of "short-term value" need not be retained beyond their usefulness to the custodian. As such, most emails may be destroyed by the sender and recipient as they see fit and need be retained only if the substance of the communication is subject to retention under a specific provision as set out in the applicable schedule.

18. See G.S. 132-9(c).

19. See the Government Records Branch web page at www.records.ncdcr.gov/local/default.htm.

Additional Resources

Additional information can be found by searching *Coates' Canons: NC Local Government Law Blog* (<http://sogweb.sog.unc.edu/blogs/localgovt>) using the keyword “public records.” A comprehensive guide to the state’s public records laws and their interpretation by the courts is provided by David M. Lawrence, *Public Records Law for North Carolina Local Governments*, 2nd ed. (Chapel Hill: UNC School of Government, 2009).

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