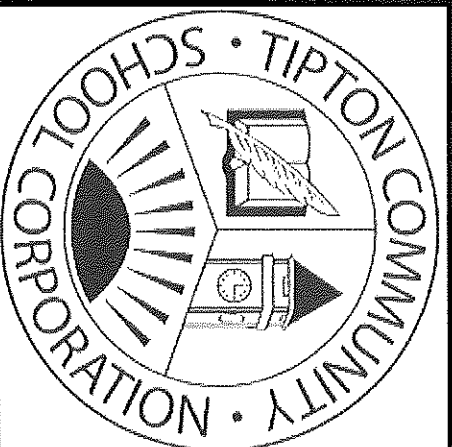


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Tipton Community School Corporation School Board Training



February 8, 2021

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Overview

- Board Powers/Responsibilities
- Key Bylaws + Policies with Direct Board Impact
- Open Door Law
- Records/FERPA

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Board Powers and Responsibilities

Board Responsibilities

**All arms of government
Executive, Legislative and Judicial
Primary responsibility:
Hire & Supervise Superintendent
Read/Understand/Follow Bylaws and
Policies
Read/Understand/Follow ISBA Code of
Ethics**

Breakdown of Board Responsibilities

Legislative

- Establish, understand, and follow Bylaws and Policies

Executive

- Employ superintendent

Judicial

- Hold hearings

Teacher Termination Process/Hearing

- Preliminary Determination
(typically issued by principal)
- Superintendent Private Conference*
- School Board Private Conference*

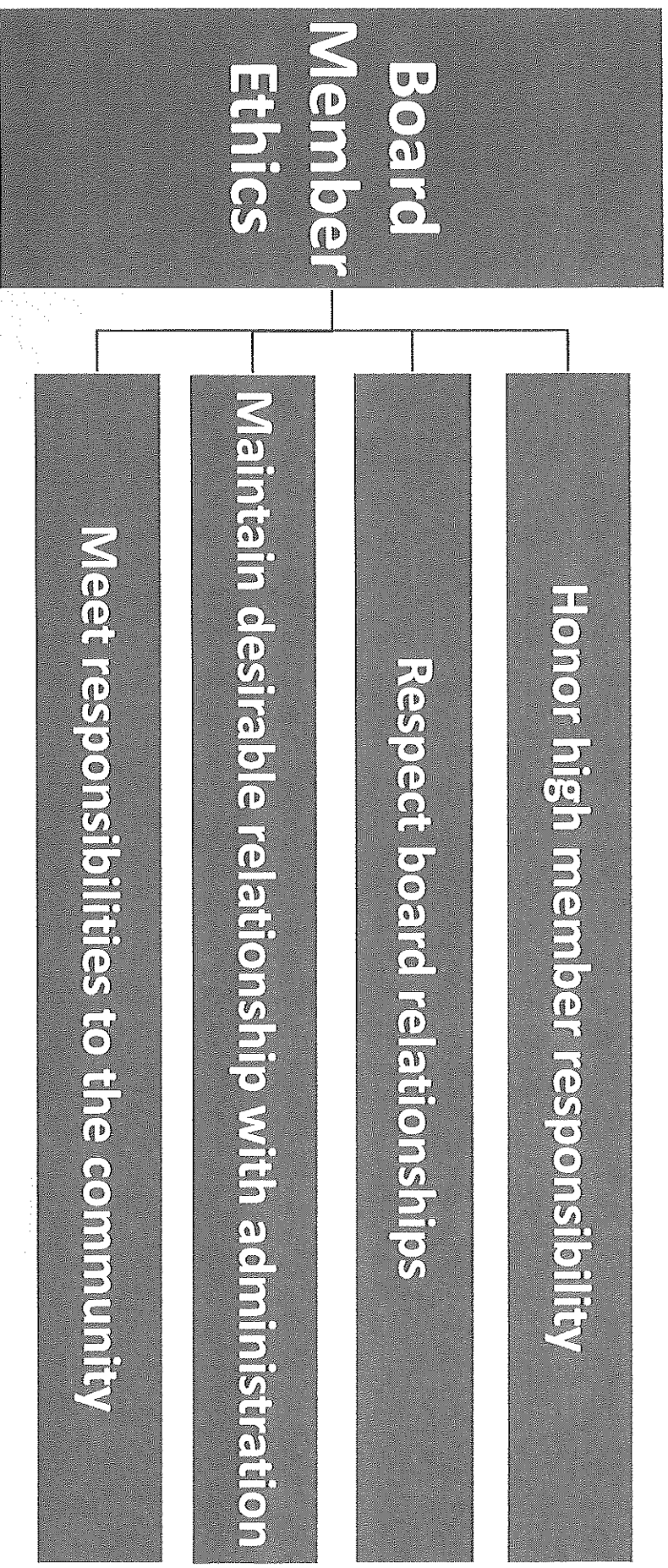
**If requested. Due to school board role as appellate body, important for school board members to refrain from involvement in earlier steps of process.*

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Key Bylaws + Policies with Direct Board Impact

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Bylaws + Policies with Direct Board Impact



Bylaws + Policies with Direct Board Impact

Board Member Ethics

A School Board member should honor the high responsibility which his/her membership demands by:

- Thinking always in terms of children first
- Understanding the basic function of the School Board member is “policy-making” and not “administrative,” and by accepting the responsibility of learning to discriminate intelligently between these two functions
- Refusing to “play politics” in either the traditional partisan, or in any petty sense and representing at all times the entire school community

Bylaws + Policies with Direct Board Impact

Board Member Ethics

A School Board member should respect his/her relationships with other members of the Board by:

- Recognizing that authority rests only with the board in official meetings and that the individual member has no legal status to bind the board outside of such meetings
- Making decisions only after all facts bearing on a question have been presented and discussed
- Respecting the opinion of others and by graciously conforming to the principle of majority rule

Bylaws + Policies with Direct Board Impact

Board Member Ethics

A School Board member should maintain desirable relationships with Superintendent and his/her staff by:

- Giving the superintendent full administrative authority for properly discharging his/her professional duties and hold him/her responsible for acceptable results.
- Acting only upon recommendation of the Superintendent in matters of employment or dismissal of school personnel.
- Referring all complaints to the proper administrative office and by discussing them only at a regular meeting after failure of an administrative solution.

Bylaws + Policies with Direct Board Impact

Board Member Ethics

A School Board member should meet his/her responsibilities to the community by:

- Attempting to appraise fairly both the present and future educational needs of the community
- Insisting that all school business transactions be on an open, ethical, and above-board basis
- Vigorously seeking adequate financial support for the schools
- Refusing to use School Board position for personal gain or prestige
- Refusing to discuss personnel matters or any other confidential business of the Board in his/her home or in the community/public;

Bylaws + Policies with Direct Board Impact

Gifts and Gratuities

A Board member or an employee of the School Corporation making a recommendation to the Board on a matter to be considered by the Board shall not accept any gift or gratuity from a person or entity having a substantial personal or pecuniary interest in the Board's decision on the matter in accordance with the restrictions and provisions of I.C. 35-44.1-1-4.

Bylaws + Policies with Direct Board Impact

Gifts and Gratuities

If a Board member taking part in evaluating a proposal to be considered by the Board, or a dependent of a Board member, has accepted a gift or gratuity from a person or entity having a substantial personal or pecuniary interest in the Board's decision, the Board member shall abstain from all involvement in the formulation of a recommendation to the Board, Board discussion on the matter, and the Board vote on the matter.

Bylaws + Policies with Direct Board Impact

Conflict of Interest

If Board member or spouse/dependent has pecuniary interest in a contract or purchase to be approved by the Board, or a Board member or spouse/dependent will profit from a contract or purchase to be approved by the Board, the Board member shall submit a written Conflict of Interest disclosure on State Board of Accounts Form 236. Board member shall not participate in the discussion or vote on the acceptance of his/her disclosure or approval of the contract or purchase, and the role played by this Board member shall be described in the minutes of the meeting.

Bylaws + Policies with Direct Board Impact

Conflict of Interest

Profiteering from Public Service

For one (1) year after leaving the Board, a member of the Board shall not obtain a pecuniary interest in any contract or purchase which was approved by the Board during his/her Board service unless the former member:

1. Was screened from any participation in the contract or purchase
2. Has not and will not receive a part of any profit from the contract or purchase by the Board; and
3. Promptly gives notice to the Board of his/her interest in the contract or purchase

This limitation does not apply if the Board member receives less than \$250.00 of the profits from the contract or purchase.

Bylaws + Policies with Direct Board Impact

Conflict of Interest Per Statute:

A conflict of interest occurs when a school board member or employee *knowingly or intentionally benefits financially from a contract with the school or a purchase made by the school.*

A common misperception is that someone must have ill intent for a conflict of interest to arise; in fact, a conflict exists even when an employee or school board member's intent is to give the school a "good deal."

If you are elected or are appointed by an elected public servant, then your appropriate disclosure of the conflict of interest prevents commission of the conflict of interest felony.

SBOA Conflict form: <https://www.in.gov/isda/files/conflict-of-interest-2018.pdf>

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Bylaws + Policies with Direct Board Impact

Public Expression of Board Members

Board President functions as the official spokesperson.

When writing or speaking on school matters to media, government officials, or the public, Board members should make clear that their views do not necessarily reflect the views of the Board or of their colleagues on the Board. *[includes social media]*

Bylaws + Policies with Direct Board Impact

Defense and Indemnification

The Board will pay all costs and fees incurred by or on behalf of any Board member in the defense of any claim under law if the Board by resolution determines that the Board member's actions upon which the claim is based arise out of the performance of the member's duties as a Board member, and were taken in good faith.

Bylaws + Policies with Direct Board Impact

Public Participation at Board Meetings

The School Board recognizes the value of public comment on educational issues and the importance of allowing members of the public to express themselves on Corporation matters.

To permit fair and orderly public expression, the Board may provide a period for public participation at every regular meeting of the Board.

The presiding officer of each Board meeting at which public participation is permitted shall administer the procedures of the Board for its conduct.

Bylaws + Policies with Direct Board Impact

Public Participation at Board Meetings

- A. Public participation shall be permitted as indicated on the order of business, or at the discretion of the presiding officer.
- B. Anyone having a legitimate interest in the actions of the Board may participate during the public portion of a meeting.
- C. Participants must be recognized by the presiding officer and will be requested to preface their comments by an announcement of their name.

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Bylaws + Policies with Direct Board Impact

Public Participation at Board Meetings

The presiding officer may:

1. Prohibit public comments which are frivolous, repetitive, or harassing;
2. Interrupt, warn, or terminate a person's statement when the statement is too lengthy, personally directed, abusive, obscene, or irrelevant;
3. Request any individual to leave the meeting when that person behaves in a manner that is disruptive of the orderly conduct of the meeting;
4. Request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting;
5. Call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action;
6. Waive these rules with the approval of the Board when necessary for the protection of privacy or the administration of the Board's business.

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Open Door Law

Definition of Meeting

I.C. 5-14-1.5-2(d)

A meeting is...

A gathering of majority of Board Members for the purpose of taking
“official action” upon public business

A meeting is NOT...

A social or change gathering

An on-site inspection

Travel to and attending meetings of organizations devoted to
betterment of government

A caucus

A gathering to discuss industrial or commercial prospect

An orientation of members, but not for any official action

A gathering of Board members for sole purpose of administering the
oath of office

Collective bargaining discussions

Meetings

Voting

- All regular and those special meetings of the Board at which the Board is authorized to take official action shall be conducted in compliance with the Indiana Open Door Law (I.C. 5-14-1.5). Except with respect to the approval or modification of a contract, no action shall be valid unless approved at a public meeting of the Board by a majority vote of a quorum of the Board and a proper record made of the vote. Board action to approve or modify a contract shall require an affirmative vote of a majority of all members of the Board. Board member must be physically present in order to cast a valid vote.
- Exception: Executive sessions provided for by IC 5-14-1.5-6.1

Official Action

Per Statute I.C. 5-14-1.5-2

Official action refers to most things that a school board does when it convenes as a body.

Receive information

Deliberate

Make recommendations

Establish policy

Make decisions

Take final action (such as a vote)

A quorum (a majority of the board members) must be present for the school board to take official action.

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Executive Sessions

Per Statute I.C. 5-14-1.5-2

“Executive Session” means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose.

“Final Action” means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

You can never vote during an executive session, but may make decisions short of “final action.”

**Sharing thoughts vs. sharing result
Think “Chopped”**

War stories from litigation

Bylaws + Policies with Direct Board Impact

Executive Sessions

Executive sessions may be held only after giving proper notice, for the following purposes:

- Where authorized by Federal or State statute
- discussion of strategy with respect to collective bargaining, initiation of litigation, litigation which is pending or has been threatened in writing, implementation of security systems, purchase or lease of real property, providing that the strategy is necessary for bargaining or competitive reasons.
- for discussion of the assessment, design, and/or implementation of school safety and security measures, plans, and systems
- to receive information about, and interview, prospective employees

Bylaws + Policies with Direct Board Impact

Executive Sessions

Executive sessions may be held only after giving proper notice, for the following purposes:

- with respect to any individual over whom the Board has jurisdiction, receive information concerning the individual's alleged misconduct, and to discuss, prior to determination, that individual's status as an employee, student, or independent contractor who is a physician or a school bus driver
- discussion of records classified as confidential by Federal or State statute
- discussion before any placement decision, of an individual student's abilities, past performance, behavior, and needs

Bylaws + Policies with Direct Board Impact

Executive Sessions

Executive sessions may be held only after giving proper notice, for the following purposes:

- discussion of an employee's job performance evaluation
- when considering the appointment of a public official, to develop a list of prospective appointees, to consider applications and make one (1) initial exclusion of prospective appointees from further consideration
- training of Board members by an outside consultant on performance of their role as public officials and/or discussion with or between county officials, Board members, and an outside consultant concerning the performance of Board members

Executive Sessions

Per Statute I.C. 5-14-1.5-2

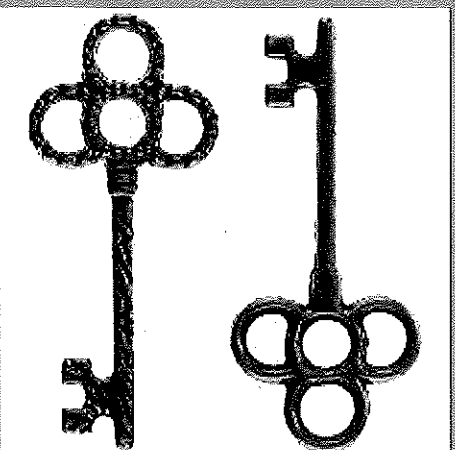
<u>Executive Session</u>	<u>Board Meeting/Final Action</u>
Less than Vote	Vote
Specific Purpose / Not Public	Public
Thoughts	Results

Think:



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Access to Public Records Act (APRA) and Family Rights and Privacy Act (FERPA)



What is APRA and what does it do?

Provides members of the public access to records created by a public agency.

Rationale:

- “A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master.”
- To provide “full and complete information regarding the affairs of government and the official acts of those who represent [the public] as public officials and employees.”

What is APRA and what does it do?

APRA is to be “liberally construed” to “place burden of proof for the nondisclosure of a public record on the public agency.”

Nearly everything that is recorded, whether on paper or otherwise, is a public record. Anyone (including media) can request and will likely obtain it.

What documents may be accessed under APRA?

Public records (unless excepted from disclosure)

Writing, paper, or report, study, map, photograph, book, card, tape recording, or material *created, received, retained, maintained or filed by or with a public agency.*

Generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material regardless of form or characteristics.

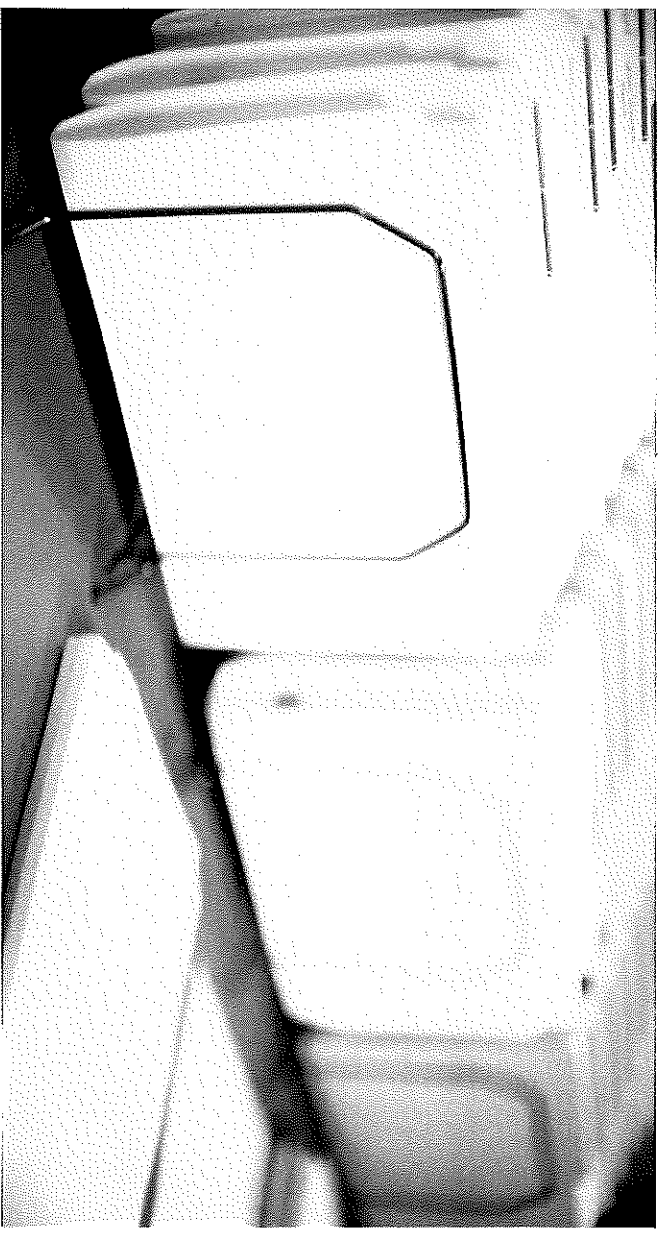
Examples of public records that may be accessed

- School board meeting materials
- Contracts to which school is a party
- Strategic Plans
- **Emails (*any* on Board business)**
Best practice to use a dedicated school e-mail address
- **Texts**
- Lesson plans
- Agendas for staff meetings
- Presentation materials

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May employees access their own personnel files?

All personnel
file
information
shall be made
available to the
affected
employee or
the employee's
representative.



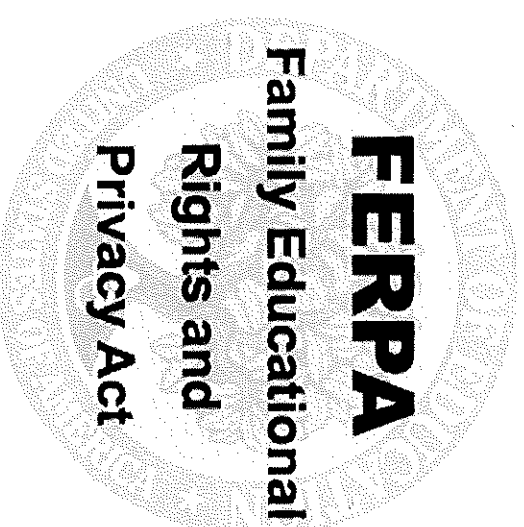
What records are prohibited from disclosure to the public?

- *Records made confidential by state statute* (i.e., protective orders and juvenile law enforcement and court records)
- *Records made confidential by federal law* (i.e., FERPA)

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What is protected under FERPA?

- Education Records
- Personally
Identifiable
Information
contained in an
education record



What is an education record under FERPA?

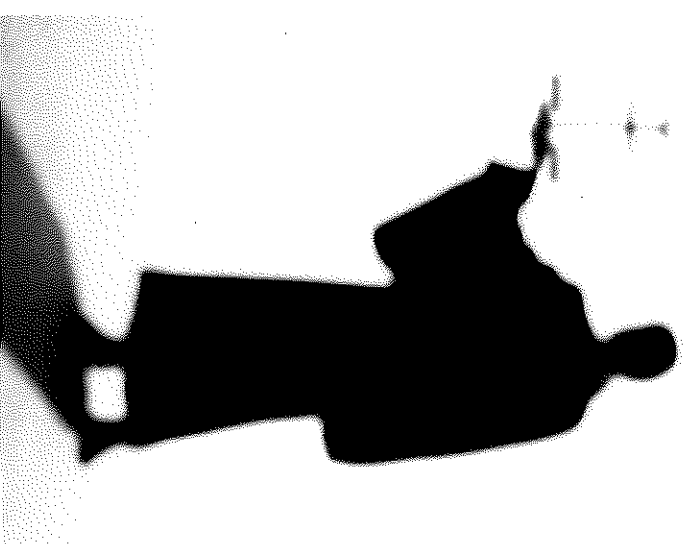
- Any record of information that is:
 - *Directly related* to a student; and
 - *Maintained by* the school.
- Some examples:
 - Attendance and disciplinary records
 - Evaluations and medical records in school custody
 - Student grades and transcripts
 - Records relating to academic performance, including student performance on standardized tests (ISTEP scores)
 - Student work
 - Emails that contain information about a student

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Intentional Disclosure of Confidential Information

Class A Misdemeanor

Knowing or intentional disclosure of
information that is classified as
confidential by state statute by an
officer or employee of a public agency or
a contractor or subcontractor of a public
agency.



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Unintentional Disclosure or Reliance on Public Access Counselor

Immune from liability
from such disclosure.

An erroneous disclosure
occurring in reliance upon
an advisory opinion by
the Public Access
Counselor is immune
from liability.



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Thank you.
Questions?

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