

Section 5

Public Records

5.1 Public Information That Must Be Disclosed

5.1.1 Law Enforcement Information

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5.1.2 Other Public Information

5.1.2.010 Advice from the City Attorney's Office

Upon request, the City Attorney will make available any written interpretation of Article I, Section 3(b) of the California Constitution, the Public Records Act, the Brown Act, the Political Reform Act and any City of San Jose Sunshine or Ethics ordinance, code or rule. This provision does not require the disclosure of the actual advice given to any client, but does require disclosure of any such interpretation regardless of whether or not it is included in the advice given to a client.

5.1.2.020 Drafts and Memoranda

- A. Except as provided in (B), below, once a document has been finalized, preliminary drafts, notes or memoranda, whether in printed or electronic form, will be subject to disclosure if they have been retained as of the time the request is made. This subsection does not require the retention of preliminary drafts, notes or memoranda that would not otherwise be retained in the ordinary course of business or pursuant to a policy, procedure or practice, provided that the City must not adopt any policy of disposing of drafts, notes or memoranda intended solely or primarily to prevent public access to those records.
- B. [IT'S NOT CLEAR WHETHER OR NOT THE SUBCOMMITTEE APPROVED THE FOLLOWING LANGUAGE AS WELL: Draft versions of an agreement being negotiated by representatives of the City with some other party, and all memoranda and other draft documents relating to such an agreement communicated to the other party, need not be disclosed immediately upon creation, but must be preserved and made available for public review 10 days before the meeting at which a policy body will decide whether to approve the agreement.]

5.1.2.030 Litigation Material

Notwithstanding any exemptions or privileges otherwise provided by law, the following are public records subject to disclosure under this Sunshine Ordinance:

- A. A pre-litigation claim against the City;
- B. A record previously received or created by a department in the ordinary course of business that was not protected by the attorney-client privilege when it was received or created; and
- C. When a lawsuit is finally adjudicated or otherwise settled, records of all communications between the department and the adverse party including the text and terms of any settlement.

5.1.2.040 Personnel Information

- A. None of the following will be exempt from disclosure under Government Code Section 6254(c), or any other provision of California law where disclosure is not forbidden:
 - 1. The job pool characteristics and employment and education histories of all successful job applicants, including, at a minimum, the following information as to each successful job applicant:
 - (a) Years of graduate and undergraduate study, degree(s) and major or discipline;
 - (b) Years of employment in the private and/or public sector;
 - (c) Whether currently employed in the same position for another public agency;
 - (d) Other non-identifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.
 - 2. The professional biography or curriculum vitae of any employee, provided that the home address, home telephone number, social security number, age and marital status of the employee must be redacted.
 - 3. The job description of every employment classification.
 - 4. The total compensation paid to an employee, including salary and City-paid benefits.
 - 5. Any memorandum of understanding between the City or department and a recognized employee organization.

6. The amount, basis and recipient of any performance-based increase in compensation, benefits or both, or any bonus, awarded to any employee, which shall be announced during the open session of a policy body at which the award is approved.

5.1.2.050 Contracts, Bids and Proposals

To be drafted for review by the Subcommittee

5.1.2.060 Budget and Other Financial Information

To be decided by the Subcommittee

5.1.2.070 Balancing Test

To be decided by the Task Force