



[EXTERNAL] Re: public records question regarding board applications

From Kris Goss <KGoss@jmgattorneys.com>

Date Wed 4/9/2025 10:56 AM

To Cook, Tracy <TCook2@mt.gov>

Tracy,

I'm glad to help whenever needed. You are never taking too much of my time.

Yes, applications for a publicly funded government employment position or official office such as board trustee are public records subject to disclosure when requested under Section 2-6-1006, MCA.

An applicant's personal information for which they have a right of privacy such as Social Security Number, official transcripts, or medical matters requiring accommodation may be redacted when disclosed. But the application, the fact the application has been submitted, the applicant's work and education history, and any supplemental documents explaining the application are public information available without a reasonable expectation of privacy.

This is compounded by the fact a public board or committee has reviewed the application documents in a public meeting. The public has a right to view all documents relied upon by a board or committee in an open session. Only closed session materials are restricted from public access to protect personal privacy.

The applications for all applicants regardless of hire or appointment status are records which should also be retained for purposes of compliance with the Local Government Records Retention Schedule and the Governmental Code Fair Practices in Title 49. The records will ensure defense against claims of improper hiring practices or improper records management.

Libraries may develop a public records policy which outlines how requests for records will be processed and the records that will be made available consistent with law. I am available to assist with that process.

Thank you,

Kris Goss

From: Cook, Tracy <TCook2@mt.gov>

Sent: Wednesday, April 9, 2025 9:31 AM

To: Kris Goss <KGoss@jmgattorneys.com>

Subject: public records question regarding board applications

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Hi Kris,

Please let me know if I am taking up too much of your time. I had a really good question that I am not sure about as I can see both sides of the argument. I can ask the Local Government Center if that's better for you.

Here is the question: "1. Are applications that are submitted for review by the board, a part of public meetings and right to know laws? I understand that the name of applicants are allowed to be known by the public, but it has been suggested that the applications given, are also subject to FOIA and can be given to and discussed by the public.

When I read MCA 2-6-1002 (11) "Public information" means information prepared, owned, used, or retained by any public agency relating to the transaction of official business, regardless of form, except for confidential information that must be protected against public disclosure under applicable law."

I am wondering if that means, we do not need to relinquish those applications, until those applying are appointed as a trustee?"

I suspect board applications fall under transaction of official business, but I wasn't sure if they were considered similar to "employment applications." I think they are public record and can be requested, but I'm really not sure about this one.

-Thanks for any help you can give,
Tracy

Tracy Cook, Lead Consulting & Learning Librarian



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