
Coates' Canons Blog: New Rules for Online Access to Databases and Other Records

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The North Carolina public records law provides a broad right of access to inspect and obtain a copy of public records. Increasingly, public agencies make records available on their websites. For example, many cities and counties post downloadable files of meeting agendas, attachments, and minutes on their websites. Does posting records online meet an agency's obligation to provide records under the public records law? In other words, if a person requests a copy of an agenda that is available online, can the public agency simply refer the requester to the online copy instead of providing a separate copy upon request? Starting July 1, 2017, the answer will be "yes."

The recently enacted regulatory reform bill (S.L. 2017-10, Sec. 2.9, SB 131) includes changes in the public records law regarding online access to records. Specifically, the law amends G.S. 132-6 regarding the general right of access to records as follows:

"A public agency or custodian may satisfy the requirements in subsection (a) of this section by making public records available online in a format that allows a person to view the public record and print or save the public record to obtain a copy. If the public agency or custodian maintains public records online in a format that allows a person to view and print or save the public records to obtain a copy, the public agency or custodian is not required to provide copies to these public records in any other way."

The act makes the same basic change in G.S. 132-6.1, the section regarding data processing records:

"Notwithstanding G.S. 132-6.2(a), a public agency may satisfy the requirement under G.S. 132-6 to provide access to public records in computer databases by making public records in computer databases individually available online in a format that allows a person to view the public record and print or save the public record to obtain a copy. A public agency that provides access to public records under this subsection is not required to provide access to the public records in the computer database in any other way; provided, however, that a public agency that provides access to public records in computer databases shall also allow inspection of any of such public records that the public agency also maintains in a nondigital medium."

Access to records in databases has been the subject of several recent cases. Private companies have sought real-time or ongoing access to the ever-changing contents of public databases. The Administrative Office of Courts has been in litigation with LexisNexis about this issue, as I've described in blog posts [here](#) and [here](#). See also, *Brooksby v. NC Admin. of the Courts*, 789 S.E.2d 540 (2016), in which a real estate company sought copies of all foreclosures since 2010. The court in that case upheld the court clerk's accommodation for providing the copies over a period of time as a reasonable balance of the right of access and available staff resources. Registers of deeds have also been subject to ongoing requests from real estate companies and others for copies of records. These new amendments specifying that online access is sufficient under the law, may provide opportunities for public agencies to more efficiently provide public access to records, especially when the requests are voluminous and ongoing.



Links

- www.ncleg.net/EnactedLegislation/SessionLaws/HTML/2017-2018/SL2017-10.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-6.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-6.1.html
- appellate.nccourts.org/opinions/?c=2&pdf=34339