

THE PUTNAM COUNTY LEGISLATURE

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June 28, 2019

Chip Rowe
Managing Editor
The Highlands Current
Via Email: editor@highlandscurrent.org

Dear Mr. Rowe:

Your inquiry was forwarded to me from Legislative Counsel Robert Firriolo. You inquired about the proposed Local Law to Amend the Putnam County Code entitled "Ethics, Code of, and Financial Disclosure" to Prohibit the Disclosure of Confidential Material, which was discussed at, and moved to the Full Legislature from the Rules, Enactments, and Intergovernmental Relations Committee on June 20, 2019.

In particular, you have asked: "how does a county employee/legislator determine what should be marked "confidential"; are there guidelines or do they make a judgment based strictly on the FOIL exceptions or other state law; or is it left to the discretion of each employee, attorney or consultant?"

The proposed local law only codifies the preexisting obligations of Putnam County employees and officials to identify material that is required to be kept confidential by law, rule, policy, procedure, or by the exercise of sound judgment, and to treat such material appropriately.

If enacted, the law would not impose a new obligation to mark such information confidential. Instead, the proposed law regulates the handling of material that: 1) has been marked confidential by a county employee who created or is sending the record (presumably either by using his or her sound judgment, or in following policy or procedure); 2) is a record exempt from disclosure under the Freedom of Information Law; or 3) is of the kind explicitly presumed to be confidential under the proposed law.

Many Putnam County employees and officials routinely handle information falling within the definition of "Confidential Material" as defined in the proposed local law. The law would only address improper disclosure or dissemination of such information outside of county government or to an unauthorized person. The proposed local law does not impact the ability of any member of the press or public to obtain Putnam County Government records through the Freedom of Information Law.

To the extent the confidential status of a given type of record is not already addressed by law, or by the policy or procedure of a department or agency, the Putnam County Law Department is

always available to advise county employees and officials if they should have any questions about the classification, treatment, or disclosure of records. Legislative Counsel also provides such advice to the Legislature.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joseph Castellano', written over a horizontal line.

Joseph Castellano
Chairman
Putnam County Legislature