

IAFF Guide to State Open Records and Freedom of Information Acts



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| | | | |
|----------------------------|----|----------------------|----|
| Introduction..... | 3 | Montana | 50 |
| Alabama | 6 | Nebraska | 51 |
| Alaska | 9 | Nevada | 53 |
| Arizona..... | 11 | New Hampshire | 54 |
| Arkansas..... | 13 | New Jersey | 55 |
| California | 16 | New Mexico..... | 57 |
| Colorado..... | 17 | New York..... | 59 |
| Connecticut | 19 | North Carolina | 60 |
| Delaware | 21 | North Dakota..... | 62 |
| District of Columbia | 23 | Ohio..... | 63 |
| Florida | 24 | Oklahoma..... | 65 |
| Georgia..... | 25 | Oregon..... | 67 |
| Hawaii | 27 | Pennsylvania | 69 |
| Idaho | 28 | Rhode Island | 70 |
| Illinois | 30 | South Carolina | 72 |
| Indiana..... | 31 | South Dakota..... | 73 |
| Iowa..... | 33 | Tennessee | 75 |
| Kansas | 34 | Texas | 76 |
| Kentucky | 36 | Utah..... | 78 |
| Louisiana..... | 38 | Vermont | 79 |
| Maine | 39 | Virginia | 81 |
| Maryland..... | 41 | Washington | 82 |
| Massachusetts | 42 | West Virginia | 84 |
| Michigan | 44 | Wisconsin..... | 85 |
| Minnesota..... | 45 | Wyoming..... | 87 |
| Mississippi | 47 | Appendix..... | 89 |
| Missouri | 48 | | |

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INTRODUCTION

What are public/open records laws?

Public/open records laws are laws that allow members of the public to seek government documents and records. Every state, as well as the District of Columbia has some version of an open records law (which may be called the Freedom of Information Act, after the federal government's statute). These statutes all cover similar ground: the right to inspect and the right to request. The right to inspect public documents means that a person can go to a local agency and physically examine a record of that agency. The person inspecting the record is permitted to make a copy of it. Generally, no fee is charged for mere inspection and the right to request means that people can request a copy of the record to be sent to them. Some states allow records to be transmitted electronically at a lower cost, while other states only allow traditional mail service, often at a higher cost.

Open records laws should be distinguished from the right to information provided by most collective bargaining laws via the "good faith" bargaining obligation. Under collective bargaining statutes, the obligation of the employer to bargain in "good faith" often implies an obligation to provide information that is relevant to subjects of collective bargaining and/or enforcement of a collective bargaining agreement. Affiliate leaders who enjoy the benefits of a collective bargaining law should consider an information request under this statute before proceeding with an open records request as denoted in this manual.

Who can request public records? Who has the right to inspect public records?

In almost every state, anyone can request or inspect a public record. Few states make any distinction based on citizenship, while a small minority of states place age restrictions or imprisonment restrictions.

What agencies or bodies are subject to open records laws?

All state and local governmental agencies and bodies are typically subject to open records laws. However, many states also exclude certain records of the legislature and governor. Most states also forbid public agencies from outsourcing record storage as a way to circumvent the law.

States vary as to whether or not quasi-public bodies are subject to the laws. Quasi-public bodies are organizations that are partially funded by the government or perform a service traditionally undertaken by the government (such as prisoner detention or, in some cases, volunteer fire companies). States differ on how to determine whether a quasi-public entity is subject to the open records law. Some states examine the percentage of the body that is funded by the government, while other states use a multi-factor test.

What types of records must be made available to the public?

Almost all states broadly define what types of records must be made available to the public. The statutes typically do not differentiate regarding the format that the record is kept in, and most assert that as long as the record is kept in some format, it is open to the public. This includes electronic records, physical records, recordings, films, microfilms, and more.

What types of records are exempt from public inspection?

Every state has different exemptions. Local leaders should check their individual state's information (included in this manual) to determine if the record they are seeking falls under an exemption. Please note that this volume does not list every possible exemption. If a public agency asserts an exemption to a request that is not listed here, consult an attorney or the IAFF Legal Department for an evaluation.

Typically, exemptions can be found in three locations. First, the public record law itself usually lists specific types of documents that are exempt from disclosure, such as security documents or personal information. Secondly, other state or federal laws may bar disclosure of a certain type of record. These exemptions are scattered throughout the entirety of the state's statutory code, are quite specific, and can be difficult to locate. Some states compile these exemptions on their website, but most do not. Thirdly, in some states the court system can create specific exemptions. Several states specifically authorize courts to carve out exemptions, while others simply allow the common law exemptions to continue. Most of the judicial exemptions concern an individual's right to privacy or some form of executive privilege.

Even if a record sought falls under an exemption, it can still be a good idea to request it, because many exemptions are discretionary, meaning that the agency holding the documents can release them if it chooses to do so.

What kinds of fees are associated with public records requests?

Every state has its own system for determining fees to access public records. Most states allow fee waivers for indigent people or if the disclosure of the information would be in the public interest. Fees can vary greatly, though most states limit them to around \$0.25 per page per copy. This can add up quickly, however, if a large number of documents are requested. Most states do not charge to simply inspect the records.

States are still adjusting to the onset of electronic records and the ease with which they can be transmitted. Some of the more advanced states will email records at a relatively low cost when compared to how much they would charge to transmit the records through regular mail. Further complicating the matter is that some states allow each agency to determine their own fee schedules, which can make it confusing to predict how much a request will cost. In general, it is a good idea to ask how much the request will cost in the request letter.

It is also a good idea to request that a fee be waived even if there is no statutory provision concerning fee waivers. Many agencies have discretion to waive or reduce the fee if they feel that the cost is very low or it would be in the public interest.

Can the requestor choose a format for receiving records?

In most states, the requestor cannot choose the format for receiving records. If the records are in hard copy, states will photocopy the documents and mail them to the requestor, but they will not scan them into a computer and email them. States with electronic records may offer your choice

of electronic format or hard copy.

What is the procedure for obtaining records?

The process for obtaining records can vary greatly depending on the state, but there is a general method. First, the person seeking the information should send a request to the agency that the requestor believes holds the information. If the agency does not have the requested information, most states require that agency to pass on the request to the agency that does have it. If the state does not have that requirement, then the person seeking the information must ask a different agency to try and find where the records are.

Most states allow oral requests, but some states require requests to be in writing. Unless it is a relatively simple matter, the IAFF recommends that most requests should be put in writing in order to create a record, which will be necessary if the agency denies the request.

If the request is denied, the person seeking information has several options, depending on the state. Some states allow the requestor to appeal a denial to the head of the agency, or to an independent agency that handles public information request appeals. This appeal should be filed as soon as possible following a denial because there may be a short deadline for filing such an appeal. If the appeal is denied, or if the state does not have an administrative appeal process, the requestor should seek relief in the court system as soon as possible. Many states have time limits for filing in court. Several of the states that do not have specific time limits consider timing as a factor in deciding whether or not to grant the request.

If the requestor does not receive an acceptance or denial within the required response time, the requestor should consider it to be a denial and file the appeal with the head of the agency or the independent agency that handles public information appeals. Many states allow agencies a period of time in which to delay their acceptance or denial of a request, but the agencies must specify why they are doing so.

While each state has its own preferences for what to include in a request letter, there are certain items that should be included in every letter. First, it is important to state the statute that gives the person seeking the information the right to the records. Second, the letter should contain a list and description of the records sought. The list should be both broad enough that it covers any records that exist that the requestor is unaware of, as well as specific enough that the agency can locate the documents. Third, the letter should state that if any or all of the request is denied, the requestor would like a written response detailing the reasons for such denial.

Fourth, the letter should discuss the potential costs for retrieving the letters. If the requestor is worried about costs, make sure to ask for an estimate before receiving the letters, or (if appropriate) propose to inspect the documents rather than receive copies. Fifth, request a fee waiver, even if the state does not have a fee waiver provision, as most states grant agencies discretion to lower the fee if the custodian thinks it is in the public interest. Sixth, include the statutory deadline that the agency has to respond to the request and state that after that period, a

If failure to respond will be deemed a denial and the appropriate legal consequences will follow. If the requestor is dealing with a state in which the statutory deadline is “reasonable,” the requestor can give a date by which he expects to receive an answer and let the custodian know that the requestor will be in contact after that date. Finally, it is important to include a contact phone number and email address so that the custodian can contact the requestor if any questions arise. *For an example of a sample request letter, see Appendix.*

Another possible tactic to exert pressure on an agency that is delaying document production is to contact the attorney general’s office or local district attorney. Most states allow the attorney general to file suit against an agency if the attorney general determines that it is a meritorious request. Even though most attorney generals will decline to do this, it is possible that they could put pressure on the agency to release the documents.

Who enforces public records laws? Are there sanctions for noncompliance?

This varies by state, but a vast majority of states do not have an enforcement mechanism for public records laws outside of the court system. Enforcement is usually up to the requestor to seek relief in the court system. In rare instances, the state’s attorney general may have the interest and the authority to bring suit as well. Some states have provisions that can result in fines for non-compliance with public records laws, but these fines are rarely awarded and most states simply rely on the awarding of attorneys fees as the only sanction.

Do public records laws determine how or how long public records must be maintained?

Public records laws rarely address how long records must be held, but this is becoming less of an issue now that more and more states are using digital records that can be kept in better condition and for a longer time.

ALABAMA

Who can request public records?

The Alabama public records law states that “every citizen” has the right to request and inspect.¹ It is uncertain whether “every citizen” refers to citizens of Alabama or the United States as a whole. However, a federal appellate court has held that a state is not allowed to restrict public records laws to its own citizens.²

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.³

¹ Ala. Code § 36-12-40.

² *Lee v. Minner*, 458 F.3d 194 (3d Cir. 2006) (holding that access to public records is protected by the Constitution and Delaware could not restrict its public records law to its own citizens).

³ Ala. Code § 41-13-1.

What agencies or bodies are subject to open records laws?

The Alabama public records law states that all government agencies are subject to the law and that all types of records are available. It is unclear whether this also applies to the state legislature, but a reasonable interpretation of the statute would indicate that it does.

Alabama also has a history of subjecting certain non-government entities to the open records law. A private corporation that performs a municipal function is subject to the open records law.⁴ Courts may look at a number of factors when determining whether a private corporation will be subject to the open records law, including any implementing statutes, governmental powers granted or services performed, and whether elected officials sit on the board of the corporation.⁵

What are some of the relevant exemptions from disclosure?

There are two specific statutory exclusions and two general statutory exclusions in the public records law. The law specifically exempts from disclosure: (1) records concerning libraries; (2) records concerning security measures, that, if disclosed, could be a detriment to security; and (3) “records the disclosure of which would . . . be detrimental to the best interests of the public.”⁶ In addition, records that are expressly made confidential or nonpublic by a specific statute are exempted.

Statutory Exemptions

- Certain information related to law enforcement and criminal investigations, including: law enforcement investigative records and notes,⁷ information revealed before a grand jury,⁸ investigative reports regarding crime victims,⁹ testimony reported during a fire marshall investigation (at the fire marshall’s discretion),¹⁰ and reports by probation officers.¹¹
- Hospital records, unless sought by a court order,¹² as well as many individual medical records.¹³
- Tax records and returns unless granted permission.¹⁴
- Employment reports created by the unemployment compensation division, unless

⁴ *Water Works & Sewer Bd. Of the City of Talladega v. Consolidated Publ’g Inc.*, 892 So.2d 859 (Ala. 2004)(holding that public corporations performing municipal functions are in fact agencies of those municipalities).

⁵ *Tenn. Valley Printing Co. v. Health Care Auth.*, 61 So. 3d 1027, 1034-1035 (Ala. 2010).

⁶ Ala. Code § 36-12-40.

⁷ Ala. Code § 12-21-3.1(b).

⁸ Ala. R. Crim. P. 12.3(c)(4)(iii).

⁹ Ala. Code § 15-23-5(4).

¹⁰ Ala. Code § 36-19-25.

¹¹ Ala. Code § 15-22-53(b).

¹² Ala. Code § 12-21-6(a).

¹³ Ala. Code § 27-3A-5(a)(7); §§ 22-11A-22, -38, -54; § 27-21A-25.

¹⁴ Ala. Code § 40-2A-10.

- needed to pursue an unemployment claim.¹⁵
- Documents related to workers' compensation claims, unless needed to contest a claim.¹⁶
- Information compiled by employer substance abuse testing programs or employee assistance programs, unless a waiver is signed or a court order compels disclosure.¹⁷

*Common Law Exemptions*¹⁸

- When examination of records would unduly interfere or hinder in the discharge of a public officer's duties.¹⁹
- When speculation or idle curiosity is the sole purpose of the request.²⁰
- Recorded information received in confidence by a public officer.²¹
- Sensitive personnel records.²²
- Records of a pending criminal investigation.²³
- Records which would be detrimental to the best interests of the public if disclosed.²⁴

The Alabama Open Records statute does not expressly provide for access to records with exempted materials redacted, but certain specific statutes do permit such redaction.²⁵ Courts make case-by-case determinations as to whether one can receive records with the exempted materials redacted.²⁶

What fees are associated with public records requests?

A reasonable fee shall be assessed for public records requests, which should cover the actual costs to the agency of providing copies or retrieving the information.²⁷ There is no provision for a waiver of fees.

¹⁵ Ala. Code § 25-4-116.

¹⁶ Ala. Code § 25-5-294(a).

¹⁷ Ala. Code § 25-5-339.

¹⁸ The Alabama Supreme Court has made it clear that these judicially created exemptions must be read narrowly in favor of the public. *See Chambers v. Birmingham News Co.*, 552 So. 2d 854, 856-857 (Ala. 1989).

¹⁹ *See Holcombe v. State ex rel. Chandler*, 200 So. 739, 746 (Ala. 1941)

²⁰ *Id.*

²¹ *See Stone v. Consolidated Publishing Co.*, 404 So. 2d 678, 681 (Ala. 1981) (holding courts must use balancing test between citizens' interest in knowing what government is doing and public's interest in efficient government when determining whether to apply these exemptions).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *See, e.g.*, Ala. Code § 9-16-83(b)(16) (information pertaining to surface mining and reclamation is public record, except for information of chemical and physical analysis of coal).

²⁶ *Compare Allen v. Barksdale*, 32 So. 3d 1264 (Ala. 2009) (permitting redacting of sensitive information in prison records), with *Birmingham News Co. v. Muse*, 669 So. 2d 138, 139 (Ala. 1995) (holding university's response to NCAA Letter of Inquiry could not be redacted in such a way to protect confidential information).

²⁷ 251 Op. Att'y Gen. Ala. 38 (June 12, 1998).

What is the procedure for obtaining records?

The request can usually be made in person or over the phone with the department holding the records sought. In some cases, a department may require a written request. There is no time limit for the agency response, but it may not cause any unreasonable delays.²⁸ If a state agency denies a request, there is no recourse except through the court system. An appeal of the denial must be made within two years.²⁹

What is the procedure for obtaining records?

The law does not have an enforcement provision and relief must be sought in court. The only sanction for noncompliance is the award attorneys' fees, which is within the discretion of the court.³⁰

ALASKA

Who can request public records?

"Every person" has the right to inspect public records.³¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept, except for proprietary software.³²

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law, including "instrumentalities" of state or local governments.³³ Additionally, all records developed by a private contractor for a public agency are considered public records.

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes. Additionally, there are common law exemptions.³⁴

²⁸ Op. Att'y Gen. Ala. No. 2008-073 (Apr. 21, 2008).

²⁹ Ala. Code § 6-2-38(1).

³⁰ *Advertiser Co. v. Auburn Univ.*, 579 So.2d 645 (Ala. Civ. App. 1991)(upholding denial of attorneys fees in public.

³¹ Alaska Stat. § 40.25.120(a).

³² Alaska Stat. § 40.25.220(3).

³³ Alaska Stat. § 40.25.110(a), -.220(2).

³⁴ Alaska Stat. § 40.25.220(3).

Public Records Law Exemptions

- Medical and public health-related records³⁵
- Certain law enforcement records³⁶
- Certain state security procedures and infrastructural plans³⁷

Other Statutory Exemptions

- Comments made to labor department representatives during workplace safety inspections³⁸
- Records of employee drug or alcohol testing, except with a court order³⁹
- Medical/rehabilitation records related to workers compensation claims⁴⁰
- State personnel records⁴¹
- Office of Management and Budget internal audit records and work papers⁴²
- Certain criminal justice information⁴³
- Tax returns and certain tax records⁴⁴
- Court records involving trade secrets⁴⁵
- Certain public assistance records⁴⁶

Common Law Exemptions

- Courts recognize an executive privilege.⁴⁷

Alaska law requires agencies to separate exempt and non-exempt material in the same source and release the non-exempt material.⁴⁸

What fees are associated with public records requests?

Each public agency determines the standard cost of copying a record and may not charge more than that amount per page.⁴⁹ Agencies may charge for the cost of searching for records, but the

³⁵ Alaska Stat. § 40.25.120(a)(3).

³⁶ Alaska Stat. § 40.25.120(a)(6).

³⁷ Alaska Stat. § 40.25.120(a)(10).

³⁸ Alaska Stat. § 18.60.087(b).

³⁹ Alaska Stat. § 23.10.660.

⁴⁰ Alaska Stat. § 23.30.107(b).

⁴¹ Alaska Stat. § 39.25.080.

⁴² Alaska Stat. § 44.19.147.

⁴³ Alaska Stat. § 12.62.160(a).

⁴⁴ Alaska Stat. § 40.25.100(a).

⁴⁵ Alaska Stat. § 45.50.920.

⁴⁶ Alaska Stat. §§ 47.05.020-.030.

⁴⁷ See, e.g., *Doe v. Super. Ct.*, 721 P.2d 617 (Alaska 1986) (holding internal memorandum related to Governor's appointees protected by executive privilege; *Capital Info. Grp. v. Office of the Governor*, 923 P.2d 29 (Alaska 1996) (holding executive privilege covers documents that disclose deliberative process of executive officers)).

⁴⁸ Alaska Admin. Code tit. 2, §§ 96.210(d), -.330.

⁴⁹ Alaska Stat. § 40.25.110(b).

first five hours of searching a month, per requestor, are free.⁵⁰ Waivers may be granted if it is in the public interest, as determined by the agency.⁵¹

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. In some cases, a department may require a written request.⁵² Records must be turned over within ten days if possible.⁵³ If an agency takes longer without providing an explanation, the request is considered denied.⁵⁴

The requestor can appeal the denial to the agency head within 60 days.⁵⁵ Alternatively, the requestor can file a lawsuit at any point in time and seek injunctive relief (*i.e.*, a court order requiring the agency to turn over the records).⁵⁶ The person seeking the records may also appeal the agency head's denial in court.⁵⁷ Local leaders seeking court enforcement should be aware that Alaska has a "loser pays" system, in which the court may require the losing party to pay the costs and attorneys fees of the winning party.

Who enforces public records laws? Are there sanctions for noncompliance?

Relief must be sought in court. The only sanctions for noncompliance are attorneys' fees, but locals should be aware of the risk of paying the other side's attorney's fees if the suit is lost.

ARIZONA

Who can request public records?

"Any person" may request and inspect public records.⁵⁸

What types of records must be made available to the public?

Public records are defined as all records "reasonably necessary or appropriate to maintain an accurate knowledge of [public officers'] official activities."⁵⁹ Courts have interpreted this to include all those documents in a public officer's possession that have a "substantial nexus" with

⁵⁰ Alaska Stat. § 40.25.110(c).

⁵¹ Alaska Stat. § 40.25.110(d).

⁵² Alaska Admin. Code tit. 2, § 96.310(a)-(b).

⁵³ Alaska Admin. Code tit. 2, § 96.325(a).

⁵⁴ Alaska Admin. Code tit. 2, § 96.325(f).

⁵⁵ Alaska Admin. Code tit. 2, §§ 96.340(b).

⁵⁶ Alaska Stat. § 40.25.125.

⁵⁷ Alaska Stat. § 40.25.124.

⁵⁸ Ariz. Rev. Stat. § 39-121.

⁵⁹ Ariz. Rev. Stat. § 39.121.01(B).

a government agency's activities.⁶⁰

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the law, including all organizations or bodies supported in whole or in part by public funds.⁶¹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself. Additionally, there are common law exemptions.

Public Records Law Exemptions

- Certain personal information from personnel files of law enforcement-related or judicial employees, including certain fire fighters⁶²
- Certain information related to archaeological discoveries⁶³
- Risk assessments of infrastructure⁶⁴

Statutory Exemptions

- Medical records⁶⁵
- Records of the State Banking Department relating to financial institutions, not including those documents filed with the Department⁶⁶
- Records or reports of investigations into minimum wage violations, unless needed for prosecution⁶⁷
- Confidential informant information⁶⁸
- Vital records (such as birth or death certificates)⁶⁹
- Attorney General records related to consumer fraud investigations⁷⁰

Common Law Exemptions

- The Arizona Supreme Court has identified three areas where information is protected from public disclosure: (1) confidentiality, (2) privacy or (3) disclosure against the best interest of the state. The courts use a balancing test weighing the public's right to

⁶⁰ *Griffis v. Pinal County*, 156 P.3d 418, 422 (Ariz. 2007) (holding that not all emails on government systems are "public records").

⁶¹ Ariz. Rev. Stat. § 39-121.01(A)(2).

⁶² Ariz. Rev. Stat. § 39-123.

⁶³ Ariz. Rev. Stat. § 39-125.

⁶⁴ Ariz. Rev. Stat. § 39-126.

⁶⁵ Ariz. Rev. Stat. § 12-2292.

⁶⁶ Ariz. Rev. Stat. § 6-129, -.01.

⁶⁷ Ariz. Rev. Stat. § 23-364(D).

⁶⁸ Ariz. Rev. Stat. § 12-2312.

⁶⁹ Ariz. Rev. Stat. § 36-342(B).

⁷⁰ Ariz. Rev. Stat. § 36-342.

information with the interest in confidentiality.⁷¹

Arizona law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.

What fees are associated with public records requests?

Agencies are allowed to charge reasonable fees for public records requests.⁷² The size of the fee may vary if the records are sought for a commercial purpose.⁷³ However, police reports to crime victims⁷⁴ and records provided in relation to claims of certain benefits from the federal government⁷⁵ must be provided for free.

What is the procedure for obtaining records?

The request can usually be made in person or over the phone with the public official at the department that has the information sought.⁷⁶ In some cases, a department may require a written request. The agency must respond “promptly.”⁷⁷ If the request is denied or not answered promptly, the proper recourse is through the court system.⁷⁸

Who enforces public records laws? Are there sanctions for noncompliance?

A person seeking information may complain about the actions of an agency to the Office of Ombudsman-Citizen Aide, which may investigate.⁷⁹ However, a more effective tactic would be to bring a special action in court and seek attorney’s fees.⁸⁰ Additionally, a requestor may bring a suit for damages resulting from the denial of the request against the official who denied access.⁸¹

ARKANSAS

Who can request public records?

Public records requests in Arkansas are limited to citizens of the state.⁸² Non-citizens can ask an

⁷¹ *Carlson v. Pima County*, 687 P.2d 1242, 1245 (Ariz. 1984).

⁷² Ariz. Rev. Stat. § 39-121.01(D)(1).

⁷³ Ariz. Rev. Stat. § 39-121.03(A).

⁷⁴ Ariz. Rev. Stat. § 39-127.

⁷⁵ Ariz. Rev. Stat. § 39-122.

⁷⁶ Ariz. Rev. Stat. § 39-121.01(D)(1).

⁷⁷ Ariz. Rev. Stat. § 39-121.01(E).

⁷⁸ Ariz. Rev. Stat. § 39-121.02.

⁷⁹ Ariz. Rev. Stat. §§ 41-1376

⁸⁰ Ariz. Rev. Stat. § 39-121.02(B).

⁸¹ Ariz. Rev. Stat. § 39-121.02(C).

⁸² Ark. Code Ann. § 25-19-105(a)(1).

Arkansas citizen to request records on their behalf.⁸³ A federal appellate court has held that a state is not allowed to restrict public records laws to its own citizens, so this restriction may be unconstitutional.⁸⁴ Individuals who are incarcerated after being found guilty of a felony may not request public records.⁸⁵

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁸⁶

What agencies or bodies are subject to open records laws?

All agencies or bodies that are supported in whole or in part by public funds are subject to the law.⁸⁷ Private entities must be supported by direct government funding to be subject to the public records law.⁸⁸

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes. However, courts are not permitted to create common law exemptions.⁸⁹

*Public Records Law Exemptions*⁹⁰

- State income tax records
- Medical records
- Adoption records
- Education records
- Certain law enforcement records
- Unpublished papers of the Governor, members of the General Assembly, judges, and the Attorney General
- Unpublished drafts of judicial or quasi-judicial decisions.
- Certain personnel or employee evaluation records
- Certain state security records
- Certain records that contain trade secrets

⁸³ Ark. Op. Att’y Gen. No. 96-190 (1996 Ark. AG LEXIS 180).

⁸⁴ *Lee v. Minner*, 458 F.3d 194 (3d Cir. 2006) (holding that access to public records is protected by the Constitution and Delaware could not restrict its public records law to its own citizens).

⁸⁵ Ark. Code Ann. § 25-19-105(a)(1)(B)(i).

⁸⁶ Ark. Code Ann. § 25-19-103(5)(A).

⁸⁷ Ark. Code Ann. § 25-19-103(5)(A).

⁸⁸ *Sebastian Cnty. Chapter of Am. Red Cross v. Weatherford*, 311 Ark. 656, 660-61 (Ark. 1993) (holding indirect government benefits or subsidies do not subject recipient to public records requests).

⁸⁹ Ark. Code Ann. § 25-19-105(a)(1).

⁹⁰ Ark. Code Ann. § 25-19-105(b).

Other Statutory Exemptions

- Records of individual members of the Arkansas Public Employee Retirement System⁹¹
- Certain insurance information⁹²
- Library records⁹³

Arkansas law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁹⁴

What fees are associated with public records requests?

Agencies may charge a fee to cover the costs of reproducing the records, including the cost of mailing, but not including any personnel time.⁹⁵ Additionally, the fee can be waived or reduced if the custodian of the record determines it was sought for a noncommercial purpose and waiver of the fee in the public interest.⁹⁶

What is the procedure for obtaining records?

The request can be made either orally or in written to the custodian of records for the agency.⁹⁷ Requests must be granted immediately unless the records are in active use or storage, in which case they must be made available within three working days of the request.⁹⁸ However, an agency can take a “reasonable time” if the records requested are voluminous or if it needs to determine whether an exemption exists.⁹⁹ If the request is denied, the person seeking information may appeal the decision immediately to circuit court.¹⁰⁰ An appeal must be made within 5 years.¹⁰¹

Who enforces public records laws? Are there sanctions for noncompliance?

The law can be enforced by either the requestor or the Attorney General.¹⁰² There are both criminal and civil sanctions for noncompliance,¹⁰³ in addition to the option to seek attorney’s

⁹¹ Ark. Code Ann. § 24-4-1003.

⁹² *See, e.g.*, Ark. Code Ann. §§ 11-9-905; 23-61-207.

⁹³ Ark. Code Ann. § 13-2-703.

⁹⁴ Ark. Code Ann. § 25-19-105(f).

⁹⁵ Ark. Code Ann. § 25-19-105(d)(3)(A)(i)-(ii).

⁹⁶ Ark. Code Ann. § 25-19-105(d)(3)(A)(iv).

⁹⁷ Ark. Code Ann. § 25-19-105(a)(2)(B).

⁹⁸ Ark. Code Ann. § 25-19-105(e).

⁹⁹ Ark. Op. Att’y Gen. No. 2000-059 (2000 Ark. AG LEXIS 64).

¹⁰⁰ Ark. Code Ann. § 25-19-107(a).

¹⁰¹ Ark. Code Ann. § 16-56-115.

¹⁰² *Bryant v. Weiss*, 983 S.W.2d 902, 905-06 (Ark. 1998) (Attorney General may bring suit under state’s FOIA).

¹⁰³ Ark. Code Ann. §§ 25-19-104 (class C misdemeanor for negligent violations), -107(c) (civil contempt of court for violations).

fees.¹⁰⁴

CALIFORNIA

Who can request public records?

“Every person” has the right to inspect public records.¹⁰⁵

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.¹⁰⁶

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the open records law.¹⁰⁷ Additionally, private entities are subject if they are either; 1) created by an elected legislative body to exercise authority, or 2) if they receive funds from a local agency and have as a board member at least one member of the legislative body of the local agency appointed to the governing body of the private entity as a full voting member.¹⁰⁸

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself.¹⁰⁹ There are also judicially created exemptions under a “public interest” catch-all provision in the law.”¹¹⁰

Public Records Law Exemptions

- Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business¹¹¹
- Records pertaining to pending litigation to which the public agency is a party¹¹²
- Personnel, medical or similar files¹¹³
- Investigatory records¹¹⁴
- Vulnerability assessments¹¹⁵

¹⁰⁴ Ark. Code Ann. § 25-19-107(d).

¹⁰⁵ Cal. Gov't Code § 6253(a).

¹⁰⁶ Cal. Gov't Code § 6252(e).

¹⁰⁷ Cal. Gov't Code § 6252(d).

¹⁰⁸ Cal. Gov't Code § 6252(a), and § 54952(c)(1).

¹⁰⁹ Cal. Gov't Code § 6252.

¹¹⁰ Cal. Gov't Code § 6255.

¹¹¹ Cal. Gov't Code § 6254(a).

¹¹² Cal. Gov't Code § 6254(b).

¹¹³ Cal. Gov't Code § 6254(c).

¹¹⁴ Cal. Gov't Code § 6254(f).

Catch-all Exemptions

- There is a “deliberative process privilege” that protects records developed during the decision-making process¹¹⁶

California law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.¹¹⁷

What fees are associated with public records requests?

An agency may only charge a fee that reflects the “direct cost” of retrieving the record.¹¹⁸ There is no provision for a fee waiver, but agencies are allowed to adopt rules to waive the fee.¹¹⁹

What is the procedure for obtaining records?

Requests should be made to the department which has the information sought and there is no requirement on what form the request should be in.¹²⁰ Copies of non-exempt public records must be made “promptly,” but the law does allow 10 days for the agency to make a determination as to whether a specific record is exempt.¹²¹ If the request is denied, the only recourse is through the court system.¹²² An appeal of a denial must be filed within 3 years.¹²³

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys’ fees if the suit is successful, however, the court can also award attorneys’ fees to the agency if the court finds that the requestor’s suit was frivolous.¹²⁴

COLORADO

Who can request public records?

“Any person” has the right to inspect public records.¹²⁵

¹¹⁵ Cal. Gov’t Code § 6254(aa).

¹¹⁶ Times Mirror Co. v. Superior Court, 813 P.2d 240 (Cal. 1991).

¹¹⁷ Cal. Gov’t Code § 6253(a).

¹¹⁸ Cal. Gov’t Code § 6253(b).

¹¹⁹ Cal. Gov’t Code § 6253(1)(a).

¹²⁰ Cal. Gov’t Code § 6253(c).

¹²¹ Cal. Gov’t Code § 6253(c).

¹²² Cal. Gov’t Code § 6259(a).

¹²³ Cal. Civ. Proc. Code § 338.

¹²⁴ Cal. Gov’t Code § 6259(d).

¹²⁵ Colo. Rev. Stat. § 24-72-201.

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.¹²⁶

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the open records law.¹²⁷ Additionally, non-profit corporations funded and established by a governmental body to perform governmental functions are subject to the law, as long as they are under governmental oversight, supervision, or control.¹²⁸

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Medical records¹²⁹
- Personnel files¹³⁰
- Anything that would cause “substantial injury to the public interest”¹³¹

Other Statutory Exemptions

- Information furnished for the Department of Labor¹³²
- Parole information¹³³

There is no statute on whether departments are required to separate exempt and non-exempt material in the same source and release the non-exempt material.

What fees are associated with public records requests?

An agency must not charge a fee that exceeds \$0.25 per page.¹³⁴ There is no provision for a fee waiver, but the cost can be lowered at an agency’s discretion in certain situations.¹³⁵

What is the procedure for obtaining records?

Requests should be made to the department which has the information sought and each

¹²⁶ Colo. Rev. Stat. § 24-72-202(6)(a)(I).

¹²⁷ Colo. Rev. Stat. § 24-72-202.

¹²⁸ Denver Post v. Stapleton Dev. Corp., 19 P.3d 36 (Colo. App. 2000).

¹²⁹ Colo. Rev. Stat. § 24-72-204(3)(a)(I).

¹³⁰ Colo. Rev. Stat. § 24-72-204(3)(a)(II).

¹³¹ Colo. Rev. Stat. § 24-72-204(3)(a)(XIII).

¹³² Colo. Rev. Stat. § 8-1-115(1).

¹³³ Colo. Rev. Stat. § 17-2-104.

¹³⁴ Colo. Rev. Stat. § 24-72-205(5)(a).

¹³⁵ Colo. Rev. Stat. § 24-72-205(4).

department has its own procedures for releasing information.¹³⁶ The department is allowed three business days to respond.¹³⁷ If the request is denied, the only recourse is through the court system.¹³⁸

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful, however, the court can also award attorneys' fees to the agency if the court finds that the requestor's suit was frivolous.¹³⁹ Additionally, any person who willfully and knowingly violates the provisions of the law is guilty of a misdemeanor.¹⁴⁰

CONNECTICUT

Who can request public records?

"Every person" has the right to inspect public records.¹⁴¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.¹⁴²

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the open records law.¹⁴³

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Preliminary drafts or notes that the agency has determined are not in the public interest to disclose¹⁴⁴
- Personnel or medical files whose disclosure would constitute an invasion of

¹³⁶ Colo. Rev. Stat. § 24-72-203(1)(a).

¹³⁷ Colo. Rev. Stat. § 24-72-203(3)(b).

¹³⁸ Colo. Rev. Stat. § 24-72-204(5).

¹³⁹ Colo. Rev. Stat. § 24-72-204(5).

¹⁴⁰ Colo. Rev. Stat. § 24-72-206.

¹⁴¹ Conn. Gen. Stat. §1-210(a).

¹⁴² Conn. Gen. Stat. §1-200(5).

¹⁴³ Conn. Gen. Stat. §1-200(1).

¹⁴⁴ Conn. Gen. Stat. §1-210(b)(1).

- privacy¹⁴⁵
- Certain records of law enforcement agencies¹⁴⁶
- Records, reports and statements of strategy or negotiations with respect to collective bargaining¹⁴⁷
- Records of an investigation or the name of an employee providing information under the provisions of Conn. Gen. Stat. §4-61dd(a) (the “Whistleblower Act”)¹⁴⁸
- Records whose disclosure would cause a safety risk¹⁴⁹

Other Statutory Exemptions

- Volunteer fire department records concerning “social matters”¹⁵⁰

There is no statute or case law on whether departments are required to separate exempt and non-exempt material in the same source and release the non-exempt material.

What fees are associated with public records requests?

State agencies may not charge a fee that exceeds \$0.25 per page; all other public agencies may not charge a fee that exceeds \$0.50 per page.¹⁵¹ The public agency is required to waive the fee if: (1) the requester is indigent, (2) the records when located are found to be exempt from disclosure under Conn. Gen. Stat. §1-210, (3) the agency determines that disclosure is in the public interest, or (4) the requester is an elected official in the state who obtains the record as part of his or her duties.¹⁵²

What is the procedure for obtaining records?

The request must be made in writing to the department which has the information sought.¹⁵³ The agency has four days to respond, or it is deemed a denial.¹⁵⁴ An appeal must be made within thirty days to the Freedom of Information Commission (FOIC).¹⁵⁵ If the appeal is denied, the requestor must seek relief in the court system within forty-five days.¹⁵⁶

Who enforces public records laws? Are there sanctions for noncompliance?

The FOIC has the power to enforce the law by investigating allegations holding hearings,

¹⁴⁵ Conn. Gen. Stat. §1-210(b)(2).

¹⁴⁶ Conn. Gen. Stat. §1-210(b)(3).

¹⁴⁷ Conn. Gen. Stat. §1-210(b)(9).

¹⁴⁸ Conn. Gen. Stat. §1-210(b)(13).

¹⁴⁹ Conn. Gen. Stat. §1-210(b)(19).

¹⁵⁰ Conn. Gen. Stat. §7-314(b).

¹⁵¹ Conn. Gen. Stat. §1-212(a).

¹⁵² Conn. Gen. Stat. §1-212(d).

¹⁵³ Conn. Gen. Stat. §1-212(a).

¹⁵⁴ Conn. Gen. Stat. §1-206(a).

¹⁵⁵ Conn. Gen. Stat. §1-206(b).

¹⁵⁶ Conn. Gen. Stat. §4-183(c).

examining witnesses, taking oral and documentary evidence, and subpoenaing witnesses.¹⁵⁷ FOIC has the authority to impose civil penalties of between twenty and one thousand dollars against any official who denies a request on unreasonable grounds.¹⁵⁸ Any official who fails to comply with a FOIC order is subject to a Class B misdemeanor.¹⁵⁹ Additionally, a requestor denied by the FOIC can appeal to the court system and seek court costs up to one thousand dollars if successful.¹⁶⁰

DELAWARE

Who can request public records?

By statute, only citizens of Delaware have the right to inspect public records, but a federal appellate court has held Delaware is not allowed to restrict public records laws to its own citizens.¹⁶¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.¹⁶²

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the open records law.¹⁶³ Additionally, entities are considered public if they (1) are funded in whole or in part by public money; (2) expend public money, including grants; or (3) are given the ability by any public body to make investigations, reports or recommendations.¹⁶⁴

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes. Additionally, there are common law exemptions.

Public Records Law Exemptions

- Personnel and medical records whose disclosure would constitute an invasion of

¹⁵⁷ Conn. Gen. Stat. §1-205.

¹⁵⁸ Conn. Gen. Stat. §1-206(b)(2).

¹⁵⁹ Conn. Gen. Stat. §1-206(b).

¹⁶⁰ Conn. Gen. Stat. §1-206(d).

¹⁶¹ Lee v. Minner, 458 F.3d 194 (3d Cir. 2006) (holding that access to public records is protected by the Constitution and Delaware could not restrict its public records law to its own citizens).

¹⁶² 29 Del. C. § 10002(g).

¹⁶³ 29 Del. C. § 10002(c).

¹⁶⁴ 29 Del. C. § 10002(c).

- privacy¹⁶⁵
- Investigatory files compiled for civil or criminal law-enforcement purposes¹⁶⁶
- Any records involving labor negotiations or collective bargaining¹⁶⁷
- Records whose disclosure would threaten security¹⁶⁸

Other Statutory Exemptions

- Prison records¹⁶⁹

Common Law Exemptions

- Executive privilege¹⁷⁰

There is no statute or case law on whether departments are required to separate exempt and non-exempt material in the same source and release the non-exempt material.

What fees are associated with public records requests?

An agency can charge a fee that reflects the reasonable expense of providing the record.¹⁷¹
There is no provision for a fee waiver.

What is the procedure for obtaining records?

The Department of Justice has created a standardized form for requesting records that must be filled out and sent to the department that has the information sought.¹⁷² The department must respond to the request within fifteen days.¹⁷³ If the request is denied, the only recourse is through the court system and an appeal must be filed within sixty days.¹⁷⁴

Who enforces public records laws? Are there sanctions for noncompliance?

There is no enforcement provision in the law and the only way to seek relief is in the court system. The requestor can seek attorneys' fees if the suit is successful, however, the court can also award attorneys' fees to the agency if the court finds that the requestor's suit was frivolous.¹⁷⁵

¹⁶⁵ 29 Del. C. § 10002(g)(1).

¹⁶⁶ 29 Del. C. § 10002(g)(3).

¹⁶⁷ 29 Del. C. § 10002(g)(8).

¹⁶⁸ 29 Del. C. § 10002(g)(17).

¹⁶⁹ 11 Del. C. § 4322.

¹⁷⁰ Guy v. Judicial Nominating Comm'n, 659 A.2d 777 (Del. Super. 1995).

¹⁷¹ 29 Del. C. § 10003(a).

¹⁷² 29 Del. C. § 10003(b).

¹⁷³ 29 Del. C. § 10003(b).

¹⁷⁴ 29 Del. C. § 10005(b).

¹⁷⁵ 29 Del. C. § 10005(d).

DISTRICT OF COLUMBIA

Who can request public records?

“Any person” has the right to inspect public records.¹⁷⁶

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.¹⁷⁷

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the law.¹⁷⁸

What are some of the relevant exemptions from disclosure?

The only exemptions are those specifically listed in the public records law itself.

Public Records Law Exemptions

- Personnel, medical and similar records¹⁷⁹
- Investigatory and law enforcement records¹⁸⁰
- Inter-agency and intra-agency memorandums or letters¹⁸¹
- Information that would disclose the identity of a whistleblower¹⁸²

District of Columbia law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.¹⁸³

What fees are associated with public records requests?

Agencies must charge a fee that is reasonable and as low as possible.¹⁸⁴ Agencies can provide fee waivers if it would serve the public interest.¹⁸⁵

What is the procedure for obtaining records?

Requests should be directed to the department which has the information sought and must

¹⁷⁶ D.C. Code § 2-532(a).

¹⁷⁷ D.C. Code § 2-502.

¹⁷⁸ D.C. Code § 2-502.

¹⁷⁹ D.C. Code § 2-534(a)(2).

¹⁸⁰ D.C. Code § 2-534(a)(3).

¹⁸¹ D.C. Code § 2-534(a)(4).

¹⁸² D.C. Code § 2-534(a)(12).

¹⁸³ D.C. Code § 2-534(b).

¹⁸⁴ D.C. Code § 2-532(b).

¹⁸⁵ D.C. Code § 2-532(b).

reasonably describe the public record.¹⁸⁶ The request must be complied with or denied within fifteen days.¹⁸⁷ If the request is denied, the requestor can seek relief through either the Mayor or the court system.¹⁸⁸

Who enforces public records laws? Are there sanctions for noncompliance?

The only recourse is through either the Mayor or the court system. A requestor who uses the courts can seek attorney's fees and costs, but cannot recover attorney's fees if the requestor is *pro se*.¹⁸⁹ Additionally, any person who arbitrarily or capriciously violates the law can be found guilty of a misdemeanor and punished by a fine not to exceed \$100.¹⁹⁰

FLORIDA

Who can request public records?

"Any person" has the right to inspect public records.¹⁹¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.¹⁹²

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the open records law.¹⁹³ Additionally, entities are considered public if they act "on behalf of any public agency."¹⁹⁴

What are some of the relevant exemptions from disclosure?

All records are open to the public unless specifically cited in another statute.

Other Statutory Exemptions

- Work products by a public employer made in preparation for and during collective bargaining negotiations are exempt from the law¹⁹⁵
- In addition, discussions between a chief executive officer and the legislative body or

¹⁸⁶ D.C. Code § 2-532(c).

¹⁸⁷ D.C. Code § 2-532(c).

¹⁸⁸ D.C. Code § 2-537(a).

¹⁸⁹ D.C. Code § 2-537(c).

¹⁹⁰ D.C. Code § 2-537(d).

¹⁹¹ Fla. Stat. § 119.01(1).

¹⁹² Fla. Stat. § 119.011(1).

¹⁹³ Fla. Stat. § 119.011(2).

¹⁹⁴ Fla. Stat. § 119.011(2).

¹⁹⁵ Fla. Stat. § 447.605(3).

public employer relative to collective bargaining are exempt, however, proposals and counter proposals presented during the course of collective bargaining are not¹⁹⁶

Florida law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.¹⁹⁷

What fees are associated with public records requests?

Agencies can charge fees which reflect the actual costs of retrieving the records, but cannot exceed \$0.15 per page.¹⁹⁸ There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request procedure varies by agency and there is no statutory response time for an agency request. If a request is denied, the requestor can either go through a Voluntary Mediation Program within the Attorney General's Office, or pursue a remedy in the court system.¹⁹⁹ The statute of limitations in the court system is 4 years.²⁰⁰

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.²⁰¹

GEORGIA

Who can request public records?

Only citizens of Georgia can request public records.²⁰² A federal appellate court has held that a state is not allowed to restrict public records laws to its own citizens, so this restriction may be unconstitutional.²⁰³

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.²⁰⁴

¹⁹⁶ Fla. Stat. § 447.605(1).

¹⁹⁷ Fla. Stat. § 119.07(1)(d).

¹⁹⁸ Fla. Stat. § 119.07(1)(a).

¹⁹⁹ Fla. Stat. § 16.60.

²⁰⁰ Fla. Stat. § 95.11(3).

²⁰¹ Fla. Stat. § 119.12(1).

²⁰² O.C.G.A. § 50-18-70(b).

²⁰³ Lee v. Minner, 458 F.3d 194 (3d Cir. 2006) (holding that access to public records is protected by the Constitution and Delaware could not restrict its public records law to its own citizens).

²⁰⁴ O.C.G.A. § 50-18-70(a).

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the open records law.²⁰⁵ All entities that derive a substantial portion of their budget from public funds are subject to the law.²⁰⁶

What are some of the relevant exemptions from disclosure?

The only exemptions are listed in the public records law.

Public Records Law Exemptions

- Medical records²⁰⁷
- Law enforcement records²⁰⁸
- Evaluations of public employees²⁰⁹
- Records concerning emergency preparation²¹⁰

Georgia law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.²¹¹

What fees are associated with public records requests?

An agency may charge a reasonable fee for copying costs not to exceed \$0.25 per page unless a higher charge is specifically authorized by law.²¹² The law also allows a charge for other administrative costs.²¹³ There is no provision on fee waivers.

What is the procedure for obtaining records?

The request can be made either orally or in writing to the custodian of the records in the agency.²¹⁴ The agency must respond in a reasonable time frame, but may take no more than three days.²¹⁵ If a request is denied, the requestor can seek aid from the office of the attorney general, which has established an informal mediation program, or through the court system.²¹⁶ There is no specific time limit for filing suit, but it must be done quickly so as not to unduly prejudice the opposing party.²¹⁷

²⁰⁵ O.C.G.A. § 50-18-70(a).

²⁰⁶ O.C.G.A. § 50-14-1.

²⁰⁷ O.C.G.A. § 50-18-72(a)(2).

²⁰⁸ O.C.G.A. § 50-18-72(a)(4).

²⁰⁹ O.C.G.A. § 50-18-72(a)(5).

²¹⁰ O.C.G.A. § 50-18-72(a)(15).

²¹¹ O.C.G.A. § 50-18-72(g).

²¹² O.C.G.A. § 50-18-71(a).

²¹³ O.C.G.A. § 50-18-71(d).

²¹⁴ O.C.G.A. § 50-18-71(a).

²¹⁵ O.C.G.A. § 50-18-70(f).

²¹⁶ O.C.G.A. § 50-18-73(a).

²¹⁷ O.C.G.A. § 23-1-25.

Who enforces public records laws? Are there sanctions for noncompliance?

The attorney general may file suit, but the primary means of enforcement is by the individual requestor through the court system. The law does sanction an agency if it knowingly denies a valid request, the agency is subject to a fine not to exceed \$100.00.²¹⁸ The court may also award the prevailing party reasonable attorney fees, but only if the court determines that the losing party acted without substantial justification.²¹⁹

HAWAII

Who can request public records?

“Any person” has the right to inspect public records.²²⁰

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.²²¹

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the law.²²²

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes, though the other statutory exemptions are not relevant.

Public Records Law Exemptions

- Government records that would intrude on personal privacy²²³
- Government records that by their nature, must be confidential to avoid the frustration of a legitimate government function²²⁴
- Draft working papers of legislative committees and work product, as well as records or transcripts of an investigating committee of the legislature²²⁵

Hawaii law requires departments to separate exempt and non-exempt material in the same source

²¹⁸ O.C.G.A. § 50-18-74(a).

²¹⁹ O.C.G.A. § 50-18-73(a).

²²⁰ Haw. Rev. Stat. § 92F-11(a).

²²¹ Haw. Rev. Stat. § 92F-3.

²²² Haw. Rev. Stat. § 92F-3.

²²³ Haw. Rev. Stat. § 92F-13(1).

²²⁴ Haw. Rev. Stat. § 92F-13(3).

²²⁵ Haw. Rev. Stat. § 92F-13(5).

and release the non-exempt material.²²⁶

What fees are associated with public records requests?

The fees charged are established by the Office of Information Practices and can be waived if it serves the public interest.²²⁷

What is the procedure for obtaining records?

The request procedure varies by agency. If the agency denies the request, an appeal must be brought within two years to either the Office of Information Practices or the court system.²²⁸ However, a person filing an action in court must notify the OIP in writing at the time of filing to allow the OIP the opportunity to intervene.²²⁹

Who enforces public records laws? Are there sanctions for noncompliance?

The OIP may intervene, but the primary means of enforcement is by the individual requestor through the court system. The requestor can seek attorneys' fees if the suit is successful.²³⁰

IDAHO

Who can request public records?

"Every person" has the right to inspect public records.²³¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.²³²

What agencies or bodies are subject to open records laws?

All public and bodies agencies are subject to the law.²³³

What are some of the relevant exemptions from disclosure?

The records that are exempt are specifically laid out in the public records law.

²²⁶ Haw. Rev. Stat. § 92F-42(13).

²²⁷ Haw. Rev. Stat. § 92F-42(13).

²²⁸ Haw. Rev. Stat. § 92F-42(11).

²²⁹ Haw. Rev. Stat. § 92F-15.3.

²³⁰ Haw. Rev. Stat. § 92F-15(d).

²³¹ Idaho Code § 9-338(1).

²³² Idaho Code § 9-337(13).

²³³ Idaho Code § 9-337(8).

Public Records Law Exemptions

- Certain investigatory documents compiled by law enforcement²³⁴
- Personnel records²³⁵
- Retired employees information²³⁶
- Medical records²³⁷

Idaho law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.²³⁸

What fees are associated with public records requests?

Unless proscribed in a specific department's regulations, fees must reflect actual cost and are only charged if the request is for more than 100 pages of paper records or if the actual labor exceeds two person hours.²³⁹ There is no provision for a fee waiver.

What is the procedure for obtaining records?

A request may be made orally, but some departments may require it to be in writing.²⁴⁰ A department has three business days to respond to the request.²⁴¹ If the agency denies the request, or does not respond within ten business days, the requestor can seek relief in court and must file within 180 days.²⁴²

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful and the court finds that the agency was in bad faith.²⁴³ However, the agency can also seek attorneys' fees if the court finds that the requestor was in bad faith.²⁴⁴

²³⁴ Idaho Code § 9-340B.

²³⁵ Idaho Code § 9-340C(1).

²³⁶ Idaho Code § 9-340C(2).

²³⁷ Idaho Code § 9-340C(13).

²³⁸ Idaho Code § 9-341.

²³⁹ Idaho Code § 9-338(10)(a)(i)-(ii).

²⁴⁰ Idaho Code § 9-338(4).

²⁴¹ Idaho Code § 9-339(1).

²⁴² Idaho Code § 9-343(1).

²⁴³ Idaho Code § 9-344(2).

²⁴⁴ Idaho Code § 9-344(2).

ILLINOIS

Who can request public records?

“All person” have the right to inspect public records.²⁴⁵

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.²⁴⁶

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the law.²⁴⁷

What are some of the relevant exemptions from disclosure?

The records that are exempt are specifically laid out in the statute.

Public Records Law Exemptions

- Personal information that would constitute an unwarranted invasion of privacy²⁴⁸
- Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated²⁴⁹
- Records relating to a public body’s adjudication of employee grievances or disciplinary cases²⁵⁰
- Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives²⁵¹
- Information in local emergency plans²⁵²
- Records whose disclosure would threaten public safety²⁵³

Illinois law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.²⁵⁴

²⁴⁵ 5 ILCS 140/1.

²⁴⁶ 5 ILCS 140/2/c.

²⁴⁷ 5 ILCS 140/2/a.

²⁴⁸ 5 ILCS 140/7/c.

²⁴⁹ 5 ILCS 140/7/f.

²⁵⁰ 5 ILCS 140/7/n.

²⁵¹ 5 ILCS 140/7/p.

²⁵² 5 ILCS 140/7.5/i.

²⁵³ 5 ILCS 140/7/v.

²⁵⁴ 5 ILCS 140/7/1.

What fees are associated with public records requests?

When records are furnished in an electronic format, there is no fee.²⁵⁵ However, if the request is for a paper record, the first fifty pages are free and subsequent pages shall not exceed \$0.15 per page.²⁵⁶ If the requestor can show that it is in the public interest, an agency must waive the fee or reduce the cost.²⁵⁷

What is the procedure for obtaining records?

A request may be made orally, but some departments may require it to be in writing.²⁵⁸ The agency must either comply with or deny the request within five business days after receiving it.²⁵⁹ If the request is denied, an appeal must be made within sixty days to either the Public Access Counselor in the Office of the Illinois Attorney General, or the court system.²⁶⁰ If the Public Access Counselor denies the request, an appeal can also be made to the court system.²⁶¹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. A requester who prevails in court can recover reasonable attorneys' fees and costs.²⁶² Additionally, if a court determines that an agency acted in bad faith in denying the request, the court shall also impose upon a fine between \$2,500 and \$5,000.²⁶³

INDIANA**Who can request public records?**

"Any person" has the right to inspect public records.²⁶⁴

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.²⁶⁵

²⁵⁵ 5 ILCS 140/6/a.

²⁵⁶ 5 ILCS 140/6/b.

²⁵⁷ 5 ILCS 140/6/c.

²⁵⁸ 5 ILCS 140/3/c.

²⁵⁹ 5 ILCS 140/3/d.

²⁶⁰ 5 ILCS 140/9.5.

²⁶¹ 5 ILCS 140/11/a.

²⁶² 5 ILCS 140/11/i.

²⁶³ 5 ILCS 140/11/j.

²⁶⁴ Ind. Code § 5-14-3-3(a).

²⁶⁵ Ind. Code § 5-14-3-2(l).

What agencies or bodies are subject to open records laws?

All public agencies and bodies are subject to the law.²⁶⁶ Public entities include bodies supported or maintained by public funds.²⁶⁷

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Personnel files of public employees and files of applicants for public employment²⁶⁸
- Medical records created by a provider²⁶⁹
- Records that are deliberative or advisory²⁷⁰
- Records whose disclosure would threaten public safety²⁷¹

Other Statutory Exemptions

- Law enforcement records²⁷²

Indiana law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.²⁷³

What fees are associated with public records requests?

The fee may not exceed the average cost of copying records by agencies or \$0.10 per page, whichever is greater.²⁷⁴

What is the procedure for obtaining records?

The request can be made either orally or in writing to the department which has the information sought.²⁷⁵ However, an agency can require the request to be in writing or filled out in a form.²⁷⁶

An oral request must be granted or denied in twenty-four hours, but a written request must be granted or denied in seven days.²⁷⁷ If the request is denied, the requestor can either seek relief

²⁶⁶ Ind. Code § 5-14-3-2(m).

²⁶⁷ Ind. Code § 5-14-3-2(m)(3).

²⁶⁸ Ind. Code § 5-14-3-4(a)(8).

²⁶⁹ Ind. Code § 5-14-3-4(a)(9).

²⁷⁰ Ind. Code § 5-14-3-4(b)(6).

²⁷¹ Ind. Code § 5-14-3-4(b)(19).

²⁷² Ind. Code § 5-2-4-6.

²⁷³ Ind. Code § 5-14-3-6(a).

²⁷⁴ Ind. Code § 5-14-3-8(c).

²⁷⁵ Ind. Code § 5-14-3-9(c).

²⁷⁶ Ind. Code § 5-14-3-3(a).

²⁷⁷ Ind. Code § 5-14-3-9(a).

through the Public Access Counselor (PAC) first, or proceed directly to the court system.²⁷⁸ The appeal must be filed within thirty days and must first go through the PAC if the requestor wants to seek attorney's fees and costs.²⁷⁹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. In addition to the procedure to seek attorney's fees described above, an employee or officer of a public agency who knowingly or intentionally discloses confidential can be convicted of a Class A misdemeanor.²⁸⁰

IOWA

Who can request public records?

"Every person" has the right to inspect public records.²⁸¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.²⁸²

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.²⁸³

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Personnel files of public employees²⁸⁴
- Medical records²⁸⁵
- Investigative records²⁸⁶
- Records relating to security preparation²⁸⁷

²⁷⁸ Ind. Code § 5-14-5-6.

²⁷⁹ Ind. Code § 5-14-3-9(i).

²⁸⁰ Ind. Code § 5-14-3-10(a).

²⁸¹ Iowa Code § 22.2(1)

²⁸² Iowa Code § 22.1(3).

²⁸³ Iowa Code § 22.1(1).

²⁸⁴ Iowa Code § 22.7(11).

²⁸⁵ Iowa Code § 22.7(2).

²⁸⁶ Iowa Code § 22.7(5).

²⁸⁷ Iowa Code § 22.7(45).

Other Statutory Exemptions

- Negotiating sessions, strategy meetings, mediation and deliberation of arbitrators²⁸⁸
- Certain criminal records²⁸⁹

Iowa law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.²⁹⁰

What fees are associated with public records requests?

The fee must be reasonable and take into account all costs of retrieving the records.²⁹¹ There is no provision for a fee waiver.

What is the procedure for obtaining records?

Each agency designates an agent to receive requests as well as formulates in what form the request must take.²⁹² A response should be received within twenty days.²⁹³ If the request is denied, a requestor can appeal through the court system, which must occur within thirty days.²⁹⁴ However, the requestor could also seek a rehearing in an agency appeal first, which must be filed within twenty days.²⁹⁵

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.²⁹⁶

KANSAS

Who can request public records?

"Any person" has the right to inspect public records.²⁹⁷

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.²⁹⁸

²⁸⁸ Iowa Code § 20.17(3).

²⁸⁹ Iowa Code § 692.2(1)(b).

²⁹⁰ Iowa Code § 22.11(1)(b).

²⁹¹ Iowa Code § 22.3.

²⁹² Iowa Code § 22.3(1).

²⁹³ Iowa Code § 22.8(4)(d).

²⁹⁴ Iowa Code § 17A.19(3).

²⁹⁵ Iowa Code § 17A.16(2).

²⁹⁶ Iowa Code § 22.10(3)(b).

²⁹⁷ K.S.A. 45-218(a).

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.²⁹⁹ Private entities are considered public bodies if supported in whole or part by public funds, but only records relating to activities or functions funded by the public are subject to the law.³⁰⁰

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Medical records³⁰¹
- Personnel records³⁰²
- Criminal investigation records³⁰³
- Records pertaining to employer-employee negotiation³⁰⁴
- Notes, preliminary drafts or other records in which opinions are expressed or policies are proposed³⁰⁵
- Records relating to security preparation and response³⁰⁶

Other Statutory Exemptions

- State drug testing results³⁰⁷

Kansas law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.³⁰⁸

What fees are associated with public records requests?

Fees for copies of records may not exceed the actual cost of copies and \$0.25 per page is usually considered reasonable.³⁰⁹ There is no provision for a fee waiver.

²⁹⁸ K.S.A. 45-217(g)(1).

²⁹⁹ K.S.A. 45-217(f)(1).

³⁰⁰ K.S.A. 45-217(f)(1).

³⁰¹ K.S.A. 45-221(a)(3).

³⁰² K.S.A. 45-221(a)(4).

³⁰³ K.S.A. 45-221(a)(10).

³⁰⁴ K.S.A. 45-221(a)(15).

³⁰⁵ K.S.A. 45-221(a)(20).

³⁰⁶ K.S.A. 45-221(a)(12).

³⁰⁷ K.S.A. 75-4362(e).

³⁰⁸ K.S.A. 45-221(d).

³⁰⁹ K.S.A. 45-220(b).

What is the procedure for obtaining records?

Requests must be made in writing to the department which has the information sought.³¹⁰ The request must be granted or denied within three days.³¹¹ The requestor must then either contact a local Freedom of Information Act officer or seek relief in the court system.³¹²

Who enforces public records laws? Are there sanctions for noncompliance?

The law allows the attorney general to enforce the law in court, but the requestor can also pursue relief in the court system. The requestor may seek attorneys' fees if the court finds that the agency denial was made in bad faith, but the agency can seek attorneys' fees if the court finds that the appeal was made in bad faith.³¹³ Any agency that knowingly violates the law can be fined up to \$500 for each violation.³¹⁴

KENTUCKY

Who can request public records?

"Any person" has the right to inspect public records.³¹⁵

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.³¹⁶

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.³¹⁷ An entity is considered an agency if 25 percent of its institutional funding comes from Kentucky authorities.³¹⁸ However, an entity that receives only a portion of its funding from governmental authorities, must only disclose records related to those functions or operations funded by the government.³¹⁹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes, though none of those are relevant.

³¹⁰ K.S.A. 45-220(b).

³¹¹ K.S.A. 45-218(d).

³¹² K.S.A. 45-222(a).

³¹³ K.S.A. 45-222.

³¹⁴ K.S.A. 45-223.

³¹⁵ Ky. Rev. Stat. 61.872(1).

³¹⁶ Ky. Rev. Stat. 61.870(2).

³¹⁷ Ky. Rev. Stat. 61.870(1).

³¹⁸ Ky. Rev. Stat. 61.870(1)(h).

³¹⁹ Ky. Rev. Stat. 61.870(2).

Public Records Law Exemptions

- Personal information³²⁰
- Law enforcement records³²¹
- Deliberative process documents³²²
- Records related to terrorist threat assessment and preparation³²³

Kentucky law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.³²⁴

What fees are associated with public records requests?

Requests that are made for noncommercial reasons can charge the actual cost of reproduction, but only requests for commercial purposes may include the cost of staff time.³²⁵ There is no provision for a fee waiver.

What is the procedure for obtaining records?

Agencies are required to promulgate their own rules and regulations that list the identity of the official custodian, the fees charged for copies, and the procedures to be followed.³²⁶ An agency has three business days to respond.³²⁷ If the request is denied, a requester has thirty days to appeal to the attorney general or may seek relief in the court system.³²⁸ Additionally, if the requestor is denied by the attorney general, the requestor has thirty days to seek relief in court.³²⁹

Who enforces public records laws? Are there sanctions for noncompliance?

The law allows the attorney general to enforce the law in court, but the requestor can also pursue relief in the court system. The requestor can seek attorneys' fees if the suit is successful and the court finds that the agency willfully violated the law.³³⁰

³²⁰ Ky. Rev. Stat. 61.878(1)(a).

³²¹ Ky. Rev. Stat. 61.878(1)(h).

³²² Ky. Rev. Stat. 61.878(1)(j).

³²³ Ky. Rev. Stat. 61.878(1)(m).

³²⁴ Ky. Rev. Stat. 61.878(4).

³²⁵ Ky. Rev. Stat. 61.874(2).

³²⁶ Ky. Rev. Stat. 61.876.

³²⁷ Ky. Rev. Stat. 61.880(1).

³²⁸ Ky. Rev. Stat. 61.882(2).

³²⁹ Ky. Rev. Stat. 61.880(5)(a).

³³⁰ Ky. Rev. Stat. 61.882(5).

LOUISIANA

Who can request public records?

“Any person above the age of majority” has the right to inspect public records, while “any person” can request a copy of a record.³³¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.³³²

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.³³³ Quasi-public nonprofit corporations are also subject to the law if they serve a governmental function.³³⁴

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes. Additionally, there are common law exemptions.

Public Records Law Exemptions

- Law enforcement records and criminal investigation records³³⁵
- Records used by the Governor³³⁶
- Medical records of public employees³³⁷
- Records related to terrorist threat assessment and preparation³³⁸

Other Statutory Exemptions

- Pardon and parole records³³⁹
- A complete list of over one hundred specific exemptions can be found at La. Rev. Stat. Ann. § 44:4.1.
- There is a general right to privacy that may affect the disclosure of records³⁴⁰

³³¹ La. Rev. Stat. Ann. § 44:31.B.

³³² La. Rev. Stat. Ann. § 44:1.B.

³³³ La. Rev. Stat. Ann. § 44:1.A.

³³⁴ La. Rev. Stat. Ann. § 44:1.A.

³³⁵ La. Rev. Stat. Ann. § 44:3.A.

³³⁶ La. Rev. Stat. Ann. § 44:5.

³³⁷ La. Rev. Stat. Ann. § 44:12.

³³⁸ La. Rev. Stat. Ann. § 44:3.1.

³³⁹ La. Rev. Stat. Ann. § 15:574.12.

³⁴⁰ La. Const. Art. 1, § 5. See also *Capital City Press v. East Baton Rouge Parish Metropolitan Council*, 696 So. 2d 562 (La. 1997).

Common Law Exemptions

- Personnel files, including all disciplinary records, are exempt³⁴¹

Louisiana law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.³⁴²

What fees are associated with public records requests?

Fees for copies of records must be reasonable.³⁴³ Fees can be reduced or waived for indigent persons, or if the disclosure of the record is in the public interest.³⁴⁴

What is the procedure for obtaining records?

Requests must be made in writing to the department that has the information sought. The department has three business days to respond.³⁴⁵ If the department denies the request, or there is no response within five business days, the requestor can seek relief in the court system.³⁴⁶

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.³⁴⁷

MAINE

Who can request public records?

"Every person" has the right to inspect public records.³⁴⁸

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.³⁴⁹

What agencies or bodies are subject to open records laws?

Maine does not use the identity of the record holder to determine if the record is public. Instead,

³⁴¹ Eastbank Consol. Special Serv. Fire Prot. Dist. v. Crossen, 892 So. 2d 666 (La. App. 5th Cir.), writ denied, 897 So. 2d 608 (La. 2005).

³⁴² La. Rev. Stat. Ann. § 44:33.A.

³⁴³ La. Rev. Stat. Ann. § 44:32.C.

³⁴⁴ La. Rev. Stat. Ann. § 44:32.C(2).

³⁴⁵ La. Rev. Stat. Ann. § 44:32.D..

³⁴⁶ La. Rev. Stat. Ann. § 44:35.A

³⁴⁷ La. Rev. Stat. Ann. § 44:35.A.

³⁴⁸ 1 M.R.S.A. § 408(1).

³⁴⁹ 1 M.R.S.A. § 402(3).

Maine states that the record is public if it has “been received or prepared for use in connection with the transaction of public or governmental business” or contains “information relating to the transaction of public or governmental business.”³⁵⁰

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Medical records³⁵¹
- Materials prepared for collective bargaining negotiations³⁵²
- Notes, preliminary drafts or other records in which opinions are expressed or policies are proposed³⁵³
- Records prepared to prevent or respond to terrorist attacks or other security threats³⁵⁴

Other Statutory Exemptions

- Personnel records³⁵⁵

There is no statute or case law on whether departments are required to separate exempt and non-exempt material in the same source and release the non-exempt material.

What fees are associated with public records requests?

Fees for copies of records must be reasonable and reflect the actual cost of retrieval.³⁵⁶ Fees can be reduced or waived for indigent persons, or if the disclosure of the record is in the public interest.³⁵⁷

What is the procedure for obtaining records?

Requests can be made either orally or in writing to the department which has the information sought.³⁵⁸ The department has five business days to respond.³⁵⁹ If the request is denied, an appeal must be made in the court system within five days.³⁶⁰

³⁵⁰ 1 M.R.S.A. § 402(3).

³⁵¹ 1 M.R.S.A. § 402(3)(H).

³⁵² 1 M.R.S.A. § 402(3)(D).

³⁵³ 1 M.R.S.A. § 402(3)(J).

³⁵⁴ 1 M.R.S.A. § 402(3)(Q).

³⁵⁵ 30-A M.R.S.A. § 2702.

³⁵⁶ 1 M.R.S.A. § 408(3)(A).

³⁵⁷ 1 M.R.S.A. § 408(6).

³⁵⁸ 1 M.R.S.A. § 408(1).

³⁵⁹ 1 M.R.S.A. § 409(1).

³⁶⁰ 1 M.R.S.A. § 409(1).

Who enforces public records laws? Are there sanctions for noncompliance?

The law allows the attorney general to enforce the law in court, but the requestor can also pursue relief in the court system. Reasonable attorney's fees are available if the requestor substantially prevails.³⁶¹ Additionally, the agency may be liable for a fine of up to \$500 if the court determines the conduct was a willful violation.³⁶²

MARYLAND

Who can request public records?

"All persons" have the right to inspect public records.³⁶³

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.³⁶⁴

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.³⁶⁵

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Hospital records³⁶⁶
- Medical records³⁶⁷
- Retirement records³⁶⁸
- Personnel records³⁶⁹

Other Statutory Exemptions

- Criminal records³⁷⁰

³⁶¹ 1 M.R.S.A. § 409(4).

³⁶² 1 M.R.S.A. § 410.

³⁶³ Md Code State Gov, 10-612(a).

³⁶⁴ Md Code State Gov, 10-611(h).

³⁶⁵ Md Code State Gov, 10-611(g)(1)(i).

³⁶⁶ Md Code State Gov, 10-616 (j).

³⁶⁷ Md Code State Gov, 10-617 (b).

³⁶⁸ Md Code State Gov, 10-616 (g).

³⁶⁹ Md Code State Gov, 10-616 (i).

³⁷⁰ Md Code State Gov, 10-219.

Maryland law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.³⁷¹

What fees are associated with public records requests?

Fees for copies of records must be reasonable and reflect the actual cost of retrieval.³⁷² Fees can be reduced or waived for indigent persons, or if the disclosure of the record is in the public interest.³⁷³

What is the procedure for obtaining records?

Requests must be made in writing to the department which has the information sought.³⁷⁴ The department has thirty business days to respond.³⁷⁵ If the request is denied, an appeal can be made to the administration itself.³⁷⁶ The requestor can also seek relief in the court system within two years of denial.³⁷⁷

Who enforces public records laws? Are there sanctions for noncompliance?

The attorney general may enforce the law, but it generally falls upon the requestor to enforce the law in the court system. Attorney's fees and costs can be sought if the requestor substantially prevails.³⁷⁸ The requestor can also seek damages.³⁷⁹

MASSACHUSETTS

Who can request public records?

"Any person" has the right to inspect public records.³⁸⁰

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.³⁸¹

What agencies or bodies are subject to open records laws?

All agencies and public bodies are governed by the statute except for the Legislature and the

³⁷¹ Md Code State Gov, 10-614(b)(3)(iii).

³⁷² Md Code State Gov, 10-621 (d)(1).

³⁷³ Md Code State Gov, 10-621 (e).

³⁷⁴ Md Code State Gov, 10-614 (a)(1).

³⁷⁵ Md Code State Gov, 10-614 (a)(4).

³⁷⁶ Md Code State Gov, 10-622(b).

³⁷⁷ Md. Code Ann., Cts. & Jud. Proc. § 5-110.

³⁷⁸ Md Code State Gov, 10-623 (f).

³⁷⁹ Md Code State Gov, 10-623 (d).

³⁸⁰ Mass. Gen. Laws Ch. 66, § 10(a).

³⁸¹ Mass. Gen. Laws Ch. 66, § 10(c).

governor.³⁸²

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Medical records³⁸³
- Personnel records³⁸⁴
- Inter-agency or intra-agency memoranda or letters concerning deliberative matters³⁸⁵
- Investigatory records³⁸⁶
- Records concerning security measures³⁸⁷

Other Statutory Exemptions

- Unemployment insurance records³⁸⁸

Massachusetts law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.³⁸⁹

What fees are associated with public records requests?

The fees for copies of records must be reasonable.³⁹⁰ Fees can be reduced or waived if the disclosure of the record is in the public interest.³⁹¹

What is the procedure for obtaining records?

Requests must be made in writing to the department which has the information sought.³⁹² The department has ten calendar days to respond.³⁹³ If the request is denied, the requestor can either appeal to the Supervisor of Public Records within ninety days of the original request, or seek relief in the court system.³⁹⁴

³⁸² Mass. Gen. Laws Ch. 4, § 7.

³⁸³ Mass. Gen. Laws Ch. 4, § 7(c).

³⁸⁴ Mass. Gen. Laws Ch. 4, § 7(c).

³⁸⁵ Mass. Gen. Laws Ch. 4, § 7(d).

³⁸⁶ Mass. Gen. Laws Ch. 4, § 7(f).

³⁸⁷ Mass. Gen. Laws Ch. 4, § 7(n).

³⁸⁸ Mass. Gen. Laws Ch. 151A, § 46.

³⁸⁹ Mass. Gen. Laws Ch. 66, § 10(a).

³⁹⁰ Mass. Gen. Laws Ch. 66, § 10 (a).

³⁹¹ 950 CMR 32.06(5).

³⁹² Mass. Gen. Laws Ch. 66, § 10 (b).

³⁹³ Mass. Gen. Laws Ch. 66, § 10 (b).

³⁹⁴ Mass. Gen. Laws Ch. 66, § 10 (b).

Who enforces public records laws? Are there sanctions for noncompliance?

The Supervisor of Public Records can refer instances of noncompliance to the attorney general, but the attorney general is under no obligation to act.³⁹⁵ The only true way to enforce is for the requestor to pursue the matter in the court system.³⁹⁶ Attorney's fees are only available if the defense is frivolous or insubstantial.³⁹⁷

MICHIGAN

Who can request public records?

"A person" has the right to inspect public records.³⁹⁸

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.³⁹⁹

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁴⁰⁰ Private bodies are considered agencies if created by state or local authority, or funded primarily by state or local authority.⁴⁰¹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes that are not relevant.

Public Records Law Exemptions

- Unwanted invasions of privacy⁴⁰²
- Investigatory records and law enforcement records⁴⁰³
- Records concerning security measures⁴⁰⁴

Michigan law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁴⁰⁵

³⁹⁵ Mass. Gen. Laws Ch. 66, § 10 (c).

³⁹⁶ Mass. Gen. Laws Ch. 66, § 10 (b).

³⁹⁷ Mass. Gen. Laws Ch. 231, § 6F.

³⁹⁸ Mich. Comp. Laws Ann. § 15.233.

³⁹⁹ Mich. Comp. Laws Ann. § 15.232.

⁴⁰⁰ Mich. Comp. Laws Ann. § 15.232.

⁴⁰¹ Mich. Comp. Laws Ann. § 15.232.d(iv).

⁴⁰² Mich. Comp. Laws Ann. § 15.243.1(a).

⁴⁰³ Mich. Comp. Laws Ann. § 15.243.1(b).

⁴⁰⁴ Mich. Comp. Laws Ann. § 15.243.1(u).

⁴⁰⁵ Mich. Comp. Laws Ann. § 15.244.1.

What fees are associated with public records requests?

Fees for copies of records must be limited to actual costs.⁴⁰⁶ Fees can be reduced or waived for indigent persons, or if the disclosure is in the public interest.⁴⁰⁷

What is the procedure for obtaining records?

Requests must be sent in writing to the department that has the information sought.⁴⁰⁸ The department has five business days to respond.⁴⁰⁹ If the request is denied, the requestor can appeal to the head of the department, which has ten days to respond.⁴¹⁰ If the appeal is denied, the requestor must seek relief in the court system within 180 days of the denial.⁴¹¹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. Attorney's fees and costs can be sought if the requestor prevails.⁴¹²

MINNESOTA

Who can request public records?

"The public" has the right to inspect public records.⁴¹³

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁴¹⁴

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁴¹⁵ Public bodies include any nonprofit social service agency which performs services under contract to a government entity, to the extent that it uses data on individuals because of a contractual relationship with a government entity.⁴¹⁶

⁴⁰⁶ Mich. Comp. Laws Ann. § 15.234.1.
⁴⁰⁷ Mich. Comp. Laws Ann. § 15.234.1.
⁴⁰⁸ Mich. Comp. Laws Ann. § 15.235.2.
⁴⁰⁹ Mich. Comp. Laws Ann. § 15.235.2.
⁴¹⁰ Mich. Comp. Laws Ann. § 15.235.2.
⁴¹¹ Mich. Comp. Laws Ann. § 15.240.1(a).
⁴¹² Mich. Comp. Laws Ann. § 15.240.6.
⁴¹³ Minn.Stat. § 13.03, subd. 2(b).
⁴¹⁴ Minn.Stat. § 13.02, subd. 7.
⁴¹⁵ Minn.Stat. § 13.02, subd. 11.
⁴¹⁶ Minn.Stat. § 13.02, subd. 11.

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes that are not relevant.

Public Records Law Exemptions

- Medical data⁴¹⁷
- Personnel data⁴¹⁸
- Documents concerning deliberative matters⁴¹⁹
- Investigatory records and law enforcement records⁴²⁰
- Preliminary budget proposals⁴²¹
- Collective bargaining negotiations⁴²²
- Security information⁴²³

Minnesota law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁴²⁴

What fees are associated with public records requests?

Agencies can charge a fee that reflects the actual cost of copying data, but may charge no more than \$0.25 per page if the request is for fewer than one hundred pages.⁴²⁵ There is no provision for a fee waiver.

What is the procedure for obtaining records?

Agencies are allowed to determine their own procedures for handling requests, but must respond in a prompt manner.⁴²⁶ If the request is denied, the requestor can appeal to the Office of Administrative Hearings at any point within the next two years.⁴²⁷ If the appeal is denied, the requestor must seek relief in the court system.⁴²⁸

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. Attorney's

⁴¹⁷ Minn.Stat. § 13.384. subd. 2.

⁴¹⁸ Minn.Stat. § 13.43. subd. 2.

⁴¹⁹ Minn.Stat. § 13.43. subd. 2.

⁴²⁰ Minn.Stat. § 13.82. subd. 2.

⁴²¹ Minn.Stat. § 13.64. subd. 1.

⁴²² Minn.Stat. § 13.37. subd. 2.

⁴²³ Minn.Stat. § 13.37. subd. 1.

⁴²⁴ Minn.Stat. § 13.03, subd. 3(c).

⁴²⁵ Minn.Stat. § 13.03, subd. 3(c).

⁴²⁶ Minn.Stat. § 13.02, subd. 16.

⁴²⁷ Minn.Stat. § 13.085, subd. 2(b).

⁴²⁸ Minn.Stat. § 13.08, subd. 4.

fees and costs can be sought if the requestor prevails.⁴²⁹

MISSISSIPPI

Who can request public records?

“Any person” has the right to inspect public records.⁴³⁰

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁴³¹

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁴³²

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Law enforcement investigatory records⁴³³

Other Statutory Exemptions

- Public employees retirement system⁴³⁴
- Medical records from workers compensation cases⁴³⁵
- Hospital records⁴³⁶
- Personnel records⁴³⁷

Mississippi law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁴³⁸

⁴²⁹ Minn.Stat. § 13.08, subd. 1.

⁴³⁰ Miss. Code § 25-61-5(1)(a).

⁴³¹ Miss. Code § 25-61-3(b).

⁴³² Miss. Code § 25-61-3(a).

⁴³³ Miss. Code § 25-61-12(2)(a).

⁴³⁴ Miss. Code § 25-11-119(3).

⁴³⁵ Miss. Code § 71-3-66.

⁴³⁶ Miss. Code § 41-9-68.

⁴³⁷ Miss. Code § 25-1-100(1).

⁴³⁸ Miss. Code § 25-61-5(2).

What fees are associated with public records requests?

Fees must be reasonable and cannot exceed the actual cost.⁴³⁹ There is no provision for a fee waiver.

What is the procedure for obtaining records?

Requests must be sent in writing to the department that has the information sought.⁴⁴⁰ The agency has seven business days to respond.⁴⁴¹ If the request is denied, the requestor can appeal to the Ethics Committee, but the Committee does not have enforcement power and can only issue an advisory opinion.⁴⁴² The requestor can also seek relief in the court system.⁴⁴³ The suit must be brought within 3 years in accordance with the general statute of limitations.⁴⁴⁴

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. Attorney's fees and costs, as well as a \$100 penalty, can be sought if the defendant willfully denied access.⁴⁴⁵

MISSOURI

Who can request public records?

"The public" has the right to inspect public records.⁴⁴⁶

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁴⁴⁷

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁴⁴⁸ Quasi-public bodies are also subject to the law and are defined as bodies whose purpose must be governmental or serve a governmental

⁴³⁹ Miss. Code § 25-61-7(1).

⁴⁴⁰ Miss. Code § 25-61-5(1)(a).

⁴⁴¹ Miss. Code § 25-61-5(1)(a).

⁴⁴² Miss. Code § 25-61-5(1)(a).

⁴⁴³ Miss. Code § 25-61-5(1)(a).

⁴⁴⁴ Miss. Code § 15-1-49.

⁴⁴⁵ Miss. Code § 25-61-15.

⁴⁴⁶ Mo.Rev.Stat. § 610.011.

⁴⁴⁷ Mo.Rev.Stat. § 610.010(6).

⁴⁴⁸ Mo.Rev.Stat. § 610.010(4).

function.⁴⁴⁹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Personnel records⁴⁵⁰
- Medical records⁴⁵¹
- Records prepared for labor negotiations records⁴⁵²
- Records prepared to prevent or respond to terrorist attacks or other security threats⁴⁵³

Other Statutory Exemptions

- Investigative reports of the State Fire Marshall⁴⁵⁴
- Law enforcement records⁴⁵⁵

Missouri law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁴⁵⁶

What fees are associated with public records requests?

Fees cannot exceed \$0.10 per page for a paper copy, with the hourly fee for copying time not to exceed the hourly pay for clerical staff of the agency.⁴⁵⁷ Agencies are obligated to charge the lowest fee possible and may waive the fee if it is in the public interest.⁴⁵⁸

What is the procedure for obtaining records?

The request can be made in any format to the department that has the information sought. The department has three business days to grant or deny the request.⁴⁵⁹ If the request is denied, the requestor must seek relief in the court system within one year of the denial.⁴⁶⁰

Who enforces public records laws? Are there sanctions for noncompliance?

The law allows the attorney general to enforce the law in court, but the requestor can also pursue

⁴⁴⁹ Mo.Rev.Stat. § 610.010(4)(f).

⁴⁵⁰ Mo.Rev.Stat. § 610.021(13).

⁴⁵¹ Mo.Rev.Stat. § 610.021(5).

⁴⁵² Mo.Rev.Stat. § 610.021(9).

⁴⁵³ Mo.Rev.Stat. § 610.021(18).

⁴⁵⁴ Mo.Rev.Stat. § 320.235.

⁴⁵⁵ Mo.Rev.Stat. § 610.100.

⁴⁵⁶ Mo.Rev.Stat. § 610.024.

⁴⁵⁷ Mo.Rev.Stat. § 610.026(1)(1).

⁴⁵⁸ Mo.Rev.Stat. § 610.026(1).

⁴⁵⁹ Mo.Rev.Stat. § 610.023(3).

⁴⁶⁰ Mo.Rev.Stat. § 610.027(5).

relief in the court system. The requestor may seek attorney's fees if the court finds that the agency denial was made with the knowledge that the agency was violating the law.⁴⁶¹ The agency can also be fined up to \$1,000.⁴⁶²

MONTANA

Who can request public records?

"No person" may be denied the right to request public records.⁴⁶³

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁴⁶⁴

What agencies or bodies are subject to open records laws?

All agencies or bodies that are subject to the law.⁴⁶⁵ This has been interpreted broadly by the Montana Supreme Court.⁴⁶⁶

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Private writings⁴⁶⁷
- Records and materials that are constitutionally protected from disclosure because of privacy rights⁴⁶⁸
- Records relating to public and individual safety⁴⁶⁹

Other Statutory Exemptions

- Medical records⁴⁷⁰
- Certain criminal justice information⁴⁷¹

⁴⁶¹ Mo.Rev.Stat. § 610.027(3).

⁴⁶² Mo.Rev.Stat. § 610.027(3).

⁴⁶³ Mont. Const., Art. II, § 9.

⁴⁶⁴ Mont. Code Ann. § 2-6-101(2).

⁴⁶⁵ Mont. Code Ann. § 2-6-101(2)(a).

⁴⁶⁶ Bryan v. Yellowstone Co. Elem. Sch. Dist. No. 2, 60 P.3d 381 (Mont. 2002) (holding that a committee created by a school district was a governmental body subject to the right to know provision of the Montana Constitution).

⁴⁶⁷ Mont. Code Ann. § 2-6-101.

⁴⁶⁸ Mont. Code Ann. § 2-6-102(3).

⁴⁶⁹ Mont. Code Ann. § 2-6-102(3).

⁴⁷⁰ Mont. Code Ann. § 27-6-703.

There is no statute or case law on whether departments are required to separate exempt and non-exempt material in the same source and release the non-exempt material.

What fees are associated with public records requests?

The fee must not exceed the actual cost of retrieving the record.⁴⁷² There is no provision for a fee waiver.

What is the procedure for obtaining records?

The agency must turn over public records “on demand.”⁴⁷³

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The only sanctions for noncompliance are attorneys’ fees.⁴⁷⁴

NEBRASKA

Who can request public records?

All “citizens” and “other persons” have the right to inspect public records.⁴⁷⁵

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁴⁷⁶

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁴⁷⁷

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes that are not relevant.

Public Records Law Exemptions

- Medical records⁴⁷⁸

⁴⁷¹ Mont. Code Ann. § 44-5-302(1).

⁴⁷² Mont. Code Ann. § 2-6-110.

⁴⁷³ Mont. Code Ann. § 2-6-102(2).

⁴⁷⁴ Mont. Code Ann. § 2-3-221.

⁴⁷⁵ Neb. Rev. Stat. § 84-712(1).

⁴⁷⁶ Neb. Rev. Stat. § 84-712.01(1).

⁴⁷⁷ Neb. Rev. Stat. § 84-712.01(1).

⁴⁷⁸ Neb. Rev. Stat. § 84-712.05(2).

- Personnel information⁴⁷⁹
- Law enforcement records⁴⁸⁰
- Records related to the preparation of litigation and labor negotiations⁴⁸¹
- Information related to the protection and security of public buildings⁴⁸²

Nebraska law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁴⁸³

What fees are associated with public records requests?

The fee must not exceed the actual cost of retrieving the record.⁴⁸⁴ There is no provision for a fee waiver.

What is the procedure for obtaining records?

Requests must be made in writing to the department that has the agency sought.⁴⁸⁵ The department has four business days to grant or deny the request.⁴⁸⁶ If the request is denied, the requestor can ask the attorney general for an opinion and the opinion must be issued within fifteen days.⁴⁸⁷ If the department refuses to respond to the attorney general's request, the attorney general must file suit within fifteen days of the denial.⁴⁸⁸ The requestor can also seek relief in the court system and must file within four years.⁴⁸⁹

Who enforces public records laws? Are there sanctions for noncompliance?

The attorney general can issue an opinion on the matter and is required to bring suit if the agency ignores the opinion.⁴⁹⁰ The requestor can also bring suit in lieu of asking assistance from the attorney general.⁴⁹¹ The court may award attorneys fees if the requester has "substantially prevailed."⁴⁹² Violation of the law is a Class III misdemeanor and the official who violates the law may be impeached.⁴⁹³

⁴⁷⁹ Neb. Rev. Stat. § 84-712.05(7).
⁴⁸⁰ Neb. Rev. Stat. § 84-712.05(5).
⁴⁸¹ Neb. Rev. Stat. § 84-712.05(4).
⁴⁸² Neb. Rev. Stat. § 84-712.05(8).
⁴⁸³ Neb. Rev. Stat. § 84-712.06.
⁴⁸⁴ Neb. Rev. Stat. § 84-712(3)(b).
⁴⁸⁵ Neb. Rev. Stat. § 84-712(4).
⁴⁸⁶ Neb. Rev. Stat. § 84-712(4).
⁴⁸⁷ Neb. Rev. Stat. § 84-712.03.
⁴⁸⁸ Neb. Rev. Stat. § 84-712.03(2).
⁴⁸⁹ Neb. Rev. Stat. § 25-212.
⁴⁹⁰ Neb. Rev. Stat. § 84-712.03.
⁴⁹¹ Neb. Rev. Stat. § 84-712.03.
⁴⁹² Neb. Rev. Stat. § 84-712.07.
⁴⁹³ Neb. Rev. Stat. § 84-712.09.

NEVADA

Who can request public records?

The “general public” has the right to inspect public records.⁴⁹⁴

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁴⁹⁵

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁴⁹⁶

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Certain identifying information⁴⁹⁷

Other Statutory Exemptions

- Certain budget information⁴⁹⁸

Nevada law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁴⁹⁹

What fees are associated with public records requests?

The fee must not exceed the actual cost of retrieving the record.⁵⁰⁰ The agency may waive the fee at its discretion.⁵⁰¹

What is the procedure for obtaining records?

The request must be made in writing to the agency which has the information sought.⁵⁰² The

⁴⁹⁴ N.R.S. 239.010(1).

⁴⁹⁵ N.R.S. 239.010(3).

⁴⁹⁶ N.R.S. 239.005(4).

⁴⁹⁷ N.R.S. 239.0105(1).

⁴⁹⁸ N.R.S. 353.205(3).

⁴⁹⁹ N.R.S. 239.010(3).

⁵⁰⁰ N.R.S. 239.052(1).

⁵⁰¹ N.R.S. 239.052(2).

⁵⁰² N.R.S. 239.0107(1).

custodian has five business days to grant or deny the request.⁵⁰³ The requestor must then appeal to the court system to seek relief.⁵⁰⁴

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.⁵⁰⁵

NEW HAMPSHIRE

Who can request public records?

"Every citizen" has the right to inspect public records.⁵⁰⁶ It is unclear whether this refers to citizens of the state or of the country.

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁵⁰⁷

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁵⁰⁸ Additionally, some quasi-public bodies like a nonprofit corporation formed by an association of governmental entities to provide health insurance benefits for public employees are subject to the law.⁵⁰⁹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law as well as other statutes.

Public Records Law Exemptions

- Preliminary drafts, notes, and memorandum⁵¹⁰
- Records of parole and pardon boards⁵¹¹
- Records whose disclosure would constitute an invasion of privacy⁵¹²
- Records relating to the preparation for and the carrying out of all emergency

⁵⁰³ N.R.S. 239.0107(1).

⁵⁰⁴ N.R.S. 239.011.

⁵⁰⁵ N.R.S. 239.011.

⁵⁰⁶ RSA 91-A:4, I.

⁵⁰⁷ RSA 91-A:1-a.

⁵⁰⁸ RSA 91-A:4, VI.

⁵⁰⁹ Professional Firefighters of N.H. v. Healthtrust Inc., 159 N.H. 699 (N.H. 2010).

⁵¹⁰ RSA 91-A:5, IX.

⁵¹¹ RSA 91-A:5, II.

⁵¹² RSA 91-A:5, IV.

functions⁵¹³

Other Statutory Exemptions

- Medical records⁵¹⁴
- Certain criminal justice information⁵¹⁵
- Certain records of the Department of Employment Security⁵¹⁶

There is no statute or case law on whether departments are required to separate exempt and non-exempt material in the same source and release the non-exempt material.

What fees are associated with public records requests?

The fee must reflect the actual cost of retrieving the record.⁵¹⁷ There is no provision for fee waiver.

What is the procedure for obtaining records?

The request can be made orally or in writing to the department that has the information sought. The department has five business days to grant or deny the request.⁵¹⁸ If a state agency denies a request, there is no recourse except through the court system.⁵¹⁹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can only seek attorneys fees if the court finds that a public body knew its denial was in violation of the statute.⁵²⁰ However, the court may award attorneys fees in favor of the agency if it finds that the lawsuit was in bad faith.⁵²¹

NEW JERSEY

Who can request public records?

Public records requests in New Jersey are limited to citizens of the state.⁵²² A federal appellate court has held that a state is not allowed to restrict public records laws to its own citizens, so this

⁵¹³ RSA 91-A:5, VI.

⁵¹⁴ RSA 151:21, X.

⁵¹⁵ RSA 516:36, II.

⁵¹⁶ RSA 91-A:6, RSA 282-A:117-123.

⁵¹⁷ RSA 91-A:4, IV.

⁵¹⁸ RSA 91-A:4, IV.

⁵¹⁹ RSA 91-A:7.

⁵²⁰ RSA 91-A:8, I.

⁵²¹ RSA 91-A:8, I-a.

⁵²² N.J.S.A. 47:1A-1.

restriction may be unconstitutional.⁵²³

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁵²⁴

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁵²⁵ Additionally, a governmental entity may not be excused from the law simply because the requested records are not in its possession.⁵²⁶

What are some of the relevant exemptions from disclosure?

All records are open unless exempted by: (1) the public records law, (2) any other statute, (3) resolution of either or both houses of the Legislature, (4) regulation promulgated under the authority of any statute or Executive Order of the Governor; (5) Executive Order of the Governor; (6) Rules of Court; (7) any federal law; (8) federal regulation; or (9) court order.⁵²⁷

Public Records Law Exemptions

- Inter-agency or intra-agency advisory; consultative, or deliberative material⁵²⁸
- Information pertaining to any grievance filed by or against an individual⁵²⁹
- Information pertaining to collective negotiations, including documents containing negotiating strategies⁵³⁰

Executive Order Exemptions

- All examinations conducted by state and local government agencies⁵³¹
- Personnel and pension records of state and local employees except for the employee's name, title, position, salary, payroll record, length of service, date of termination, reason for termination, amount and type of pension received, and other employee background information which discloses specific experiential, educational or medical qualifications for government employment or for receipt of a public pension, but

⁵²³ Lee v. Minner, 458 F.3d 194 (3d Cir. 2006) (holding that access to public records is protected by the Constitution and Delaware could not restrict its public records law to its own citizens).

⁵²⁴ N.J.S.A. 47:1A-1.1.

⁵²⁵ N.J.S.A. 47:1A-1.1.

⁵²⁶ Burnett v. County of Gloucester, 415 N.J. Super 506 (N.J. 2010) (holding that a governmental agency seeking to protect its records from scrutiny could not simply delegate their creation to third parties or relinquish possession to such parties).

⁵²⁷ N.J.S.A. 47:1A-1.1.

⁵²⁸ N.J.S.A. 47:1A-1.1.

⁵²⁹ N.J.S.A. 47:1A-1.1.

⁵³⁰ N.J.S.A. 47:1A-1.1.

⁵³¹ Hughes Executive Order No. 9 (1963).

excluding detailed medical or psychological information⁵³²

New Jersey case law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁵³³

What fees are associated with public records requests?

The fee charged for copying a government record is \$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger.⁵³⁴ However, if a public agency can demonstrate that the actual costs exceed this amount, the agency can charge more.⁵³⁵ Access to electronic records and non-printed materials is free.⁵³⁶ There is no provision for fee waivers.

What is the procedure for obtaining records?

All requests must be in writing and made to the agency that has the information sought.⁵³⁷ The agency must respond within seven business days, unless the record is archived or in storage or the request would substantially disrupt agency operations.⁵³⁸ Immediate access should ordinarily be granted to budgets, bills, vouchers, contracts and public employee salary and overtime information.⁵³⁹ If the request is denied, the decision can be appealed either in the courts or the Government Records Council within 45 days of the denial.⁵⁴⁰ The requestor may seek attorney's fees.⁵⁴¹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The only sanctions for noncompliance are attorneys' fees.⁵⁴²

NEW MEXICO

Who can request public records?

"Every person" has the right to inspect public records.⁵⁴³

⁵³² Byrne Executive Order No. 11 (1974).
⁵³³ Newspapers Inc. v. Township of Mt. Laurel, 660 A.2d 1173 (N.J. 1995).
⁵³⁴ N.J.S.A. 47:1A-5(b).
⁵³⁵ N.J.S.A. 47:1A-5(b).
⁵³⁶ N.J.S.A. 47:1A-5(b).
⁵³⁷ N.J.S.A. 47:1A-5(g).
⁵³⁸ N.J.S.A. 47:1A-5(i).
⁵³⁹ N.J.S.A. 47:1A-5(e).
⁵⁴⁰ N.J.S.A. 47:1A-6.
⁵⁴¹ N.J.S.A. 47:1A-6.
⁵⁴² N.J.S.A. 47:1A-6.
⁵⁴³ N.M. Stat. Ann. §14-2-1(A).

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁵⁴⁴

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁵⁴⁵ The statutory definition of public bodies includes entities created by the government and entities that are supported in whole or in part by public funding.⁵⁴⁶

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Medical records⁵⁴⁷
- Memoranda that are matters of opinion in personnel records⁵⁴⁸
- Law enforcement records⁵⁴⁹
- Records prepared to prevent or respond to terrorist attacks or other security threats⁵⁵⁰

Other Statutory Exemptions

- Arson reports⁵⁵¹

New Mexico law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁵⁵²

What fees are associated with public records requests?

Agencies may charge a reasonable fee that reflects the actual cost of obtaining a copy of a record but the fee may not exceed \$1.00 per page.⁵⁵³ There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can be made orally or in writing to the department that has the information sought. However, the department is only required to respond to a request in writing.⁵⁵⁴ The department

⁵⁴⁴ N.M. Stat. Ann. § 14-2-6(F).

⁵⁴⁵ N.M. Stat. Ann. § 14-2-6(E).

⁵⁴⁶ N.M. Stat. Ann. § 14-2-6(E).

⁵⁴⁷ N.M. Stat. Ann. § 14-2-1-A(1).

⁵⁴⁸ N.M. Stat. Ann. § 14-2-1-A(3).

⁵⁴⁹ N.M. Stat. Ann. § 14-2-1-A(4).

⁵⁵⁰ N.M. Stat. Ann. § 14-2-1-A(7).

⁵⁵¹ N.M. Stat. Ann. § 41-8-4.

⁵⁵² N.M. Stat. Ann. § 14-2-9-A.

⁵⁵³ N.M. Stat. Ann. § 14-2-9(C)(2).

⁵⁵⁴ N.M. Stat. Ann. § 14-2-8(A).

has three business days to grant or deny the request.⁵⁵⁵ If the request is denied, the requestor must seek relief in the court system.⁵⁵⁶

Who enforces public records laws? Are there sanctions for noncompliance?

The law allows the attorney general to enforce the law in court, but the requestor can also pursue relief in the court system. The only sanctions for noncompliance are attorneys' fees.⁵⁵⁷

NEW YORK

Who can request public records?

"The public" has the right to inspect public records.⁵⁵⁸

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁵⁵⁹

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law except for the legislature and the judiciary.⁵⁶⁰ The statutory definition of agencies that are subject to the act includes entities that perform a governmental or proprietary function of the state.⁵⁶¹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Records if disclosed would impair present or imminent contract awards or collective bargaining negotiations⁵⁶²
- Law enforcement records⁵⁶³
- Records that would constitute unwarranted invasion of personal privacy⁵⁶⁴
- Certain inter-agency or intra-agency materials⁵⁶⁵

⁵⁵⁵ N.M. Stat. Ann. § 14-2-8(D).

⁵⁵⁶ N.M. Stat. Ann. § 14-2-12(A).

⁵⁵⁷ N.M. Stat. Ann. § 14-2-12(D).

⁵⁵⁸ N.Y. Pub. Off. Law § 84.

⁵⁵⁹ N.Y. Pub. Off. Law § 86(4).

⁵⁶⁰ N.Y. Pub. Off. Law § 86(3).

⁵⁶¹ N.Y. Pub. Off. Law § 86(3).

⁵⁶² N.Y. Pub. Off. Law § 87(2)(c).

⁵⁶³ N.Y. Pub. Off. Law § 87(2)(e).

⁵⁶⁴ N.Y. Pub. Off. Law § 87(2)(b).

Other Statutory Exemptions

- Personnel records of firefighters⁵⁶⁶

New York law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁵⁶⁷

What fees are associated with public records requests?

The fees charged must reflect the actual cost of retrieving the record, and may not exceed \$0.25 cent per page.⁵⁶⁸ There is no provision for a fee waiver.

What is the procedure for obtaining records?

Requests must be made in writing to the department that has the agency sought. The department has five business days to respond to the request.⁵⁶⁹ If the request is denied, the requestor must file an administrative appeal within thirty days.⁵⁷⁰ If the administrative appeal is denied, another appeal may be filed under Article 78 of the New York Civil Practice Law and Rules.⁵⁷¹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. When an agency acts in bad faith in withholding non-exempt records, a court may award reasonable attorneys' fees and costs to a party which prevails in litigation against an agency. In order to recover fees, a party must substantially prevail, and: 1) the agency must have lacked a reasonable basis for not disclosing the record, or 2) the agency failed to respond to a request within the statutory time limit.⁵⁷²

NORTH CAROLINA**Who can request public records?**

“Any person” has the right to inspect public records.⁵⁷³

⁵⁶⁵ N.Y. Pub. Off. Law § 87(2)(g).

⁵⁶⁶ N.Y. Civil Rights Law § 50-a.

⁵⁶⁷ N.Y. Pub. Off. Law § 87(2)(b).

⁵⁶⁸ N.Y. Pub. Off. Law § 87(1)(b)(iii).

⁵⁶⁹ N.Y. Pub. Off. Law § 89(3)(a).

⁵⁷⁰ N.Y. Pub. Off. Law § 89(3)(a).

⁵⁷¹ N.Y. Pub. Off. Law § 89(4)(b).

⁵⁷² N.Y. Pub. Off. Law § 89(4)(c).

⁵⁷³ N.C.G.S. § 132-6(a).

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁵⁷⁴

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁵⁷⁵

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

*Public Records Law Exemptions*⁵⁷⁶

- Certain records of criminal investigations conducted by law enforcement agencies⁵⁷⁷
- Certain emergency security plans⁵⁷⁸

Other Statutory Exemptions

- Information obtained by the North Carolina State Employment Service Division from workers in the course of administering the State Public Employment Service Program⁵⁷⁹
- Medical records⁵⁸⁰
- Probation records⁵⁸¹

North Carolina law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁵⁸²

What fees are associated with public records requests?

The public records law requires the information to be provided at “cost”, which is defined as “direct, chargeable costs related to the reproduction of a public record.”⁵⁸³ There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can usually be made orally or in writing to the department that has the information sought. An agency does not have a specific time in which it must respond, it must merely

⁵⁷⁴ N.C.G.S. § 132-6(a).

⁵⁷⁵ N.C.G.S. § 132-1(a).

⁵⁷⁶ N.C.G.S. § 132-1.1.

⁵⁷⁷ N.C.G.S. § 132-1.4.

⁵⁷⁸ N.C.G.S. § 132-1.6.

⁵⁷⁹ N.C.G.S. § 96-4(x).

⁵⁸⁰ N.C.G.S. § 130A-12.

⁵⁸¹ N.C.G.S. § 15-207.

⁵⁸² N.C.G.S. § 132-6(c).

⁵⁸³ N.C.G.S. § 132-6.2(b).

respond in a reasonable manner.⁵⁸⁴ If the agency denies the request or does not respond, the requestor's only recourse is through the court system.⁵⁸⁵

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The only sanctions for noncompliance are attorneys' fees.⁵⁸⁶

NORTH DAKOTA

Who can request public records?

There is no restriction in the statute about who can request public records.

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁵⁸⁷

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁵⁸⁸ The statutory definition of agencies includes those that are supported in whole or in part by public funds.⁵⁸⁹

What are some of the relevant exemptions from disclosure?

All records are open to the public unless specifically cited in another statute.

Other Statutory Exemptions

- Testimony, correspondence, or other matter secured in an investigation by the state fire marshal⁵⁹⁰
- Arson investigations⁵⁹¹
- Certain criminal investigation records⁵⁹²
- Medical and personnel records of public employees⁵⁹³

North Dakota law requires departments to separate exempt and non-exempt material in the same

⁵⁸⁴ N.C.G.S. § 132-6.

⁵⁸⁵ N.C.G.S. § 132-9.

⁵⁸⁶ N.C.G.S. § 132-9(c).

⁵⁸⁷ N.D.C.C. § 44-04-17.1(16).

⁵⁸⁸ N.D.C.C. § 44-04-17.1.

⁵⁸⁹ N.D.C.C. § 44-04-17.1.

⁵⁹⁰ N.D.C.C. § 18-01-28.

⁵⁹¹ N.D.C.C. § 18-01-05.1(7).

⁵⁹² N.D.C.C. § 44-04-18.7.

⁵⁹³ N.D.C.C. § 44-04-18.1.

source and release the non-exempt material.⁵⁹⁴

What fees are associated with public records requests?

An agency may charge up to \$0.25 per page for a copy of the record.⁵⁹⁵ There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can usually be made in person or over the phone with the public official at the department that has the information sought. There is no statutory limit on how long the agency has to respond, but the attorney general stated it should only be a few days at most.⁵⁹⁶ Any interested person may request an attorney general's opinion to review a written denial of a request for records.⁵⁹⁷ A request must be made within thirty days of the alleged violation.⁵⁹⁸ If the attorney general issues a written opinion against the agency, the agency has seven days to disclose the record.⁵⁹⁹ If the agency still fails to disclose, the requestor can seek relief in the court system. The requestor must seek relief in court within sixty days of the violation or within thirty days of the issuance of an attorney general's opinion on the violation, whichever is later.⁶⁰⁰

Who enforces public records laws? Are there sanctions for noncompliance?

The law allows the attorney general to enforce the law in court, but the requestor can also pursue relief in the court system. The requestor can seek attorneys' fees if the suit is successful.⁶⁰¹ A person seeking attorneys' fees must give at least three working days' notice to the chief administrative officer of the agency.⁶⁰² A willful violation of the law is a misdemeanor.⁶⁰³

OHIO

Who can request public records?

"Any person" has the right to inspect public records.⁶⁰⁴

⁵⁹⁴ N.D.C.C. § 44-04-18.10(1).
⁵⁹⁵ N.D.C.C. § 44-04-18(2).
⁵⁹⁶ N.D. Op. Att'y Gen. 98-O-22 (1998).
⁵⁹⁷ N.D.C.C. § 44-04-21.1(1).
⁵⁹⁸ N.D.C.C. § 44-04-21.1(1).
⁵⁹⁹ N.D.C.C. § 44-04-21.1(2).
⁶⁰⁰ N.D.C.C. § 44-04-21.2(1).
⁶⁰¹ N.D.C.C. § 44-04-21.2(1).
⁶⁰² N.D.C.C. § 44-04-21.2(3).
⁶⁰³ N.D.C.C. § 44-04-21.3.
⁶⁰⁴ Ohio Rev. Code § 149.43.

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁶⁰⁵

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁶⁰⁶ The statutory definition of agencies includes those bodies that are established by the state for the exercise of any function of government.⁶⁰⁷ Courts may look at a number of factors when determining whether a body will be subject to the open records law, including if it performs an obvious governmental function, if it receives public funding, if there is government involvement or regulation, and whether it was created to circumvent the requirements of the Public Records Act.⁶⁰⁸

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Medical Records⁶⁰⁹
- Probation and Parole Records⁶¹⁰
- Confidential Law Enforcement Investigatory Records⁶¹¹
- Records maintained by the Ohio Department of Job and Family Services on statutory employer reports of new hires⁶¹²
- Firefighter residential and familial information⁶¹³
- Infrastructure and security records⁶¹⁴

Other Statutory Exemptions

- Information and records concerning investigations of complaints and charges by appropriate ethics commission⁶¹⁵
- Certain personal information in records of the Board of Trustees of the Ohio Police and Fire Pension Fund⁶¹⁶
- Information the Fire Marshal and certain other officials receive from an insurance

⁶⁰⁵ Ohio Rev. Code § 149.011(A).

⁶⁰⁶ Ohio Rev. Code § 149.011(A).

⁶⁰⁷ Ohio Rev. Code § 149.011(A).

⁶⁰⁸ State ex rel. Oriana House, Inc. v. Montgomery, 854 N.E.2d 193 (Ohio 2006).

⁶⁰⁹ Ohio Rev. Code § 149.43(A)(1)(a).

⁶¹⁰ Ohio Rev. Code § 149.43(A)(1)(b).

⁶¹¹ Ohio Rev. Code § 149.43(A)(1)(h).

⁶¹² Ohio Rev. Code § 149.43(A)(1)(o).

⁶¹³ Ohio Rev. Code § 149.43(A)(1)(u).

⁶¹⁴ Ohio Rev. Code § 149.433.

⁶¹⁵ Ohio Rev. Code § 102.06(B).

⁶¹⁶ Ohio Rev. Code § 742.41 (B).

- company that has investigated or is investigating a fire loss of real or personal property⁶¹⁷
- Testimony given in an investigation into a fire is not a matter of public record in the Fire Marshal's record of Ohio fires determined by investigations⁶¹⁸

Ohio case law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁶¹⁹

What fees are associated with public records requests?

The public records law requires the information to be provided at "cost."⁶²⁰ The Ohio Supreme Court has ruled that "cost" only refers to the paper and toner required, and does not apply to the cost of labor.⁶²¹ There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can usually be made in writing or orally with the public official at the department that has the information sought. The request must be responded to within a "reasonable" amount of time.⁶²² If a state agency denies a request, there is no recourse except through the court system.⁶²³

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The only sanctions for noncompliance are attorneys' fees and damages, which are awarded at the court's discretion.⁶²⁴

OKLAHOMA

Who can request public records?

"Any person" has the right to inspect public records.⁶²⁵

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁶²⁶

⁶¹⁷ Ohio Rev. Code § 3737.16(E).

⁶¹⁸ Ohio Rev. Code § 3737.23.

⁶¹⁹ State ex rel. Outlet Commc'ns Inc. v. Lancaster Police Dept., 528 N.E.2d 175 (Ohio 1988)

⁶²⁰ Ohio Rev. Code § 149.43(B).

⁶²¹ State ex rel. Warren Newspapers Inc. v. Hutson, 640 N.E.2d 174 (Ohio 1994).

⁶²² Ohio Rev. Code § 149.43(B)(1).

⁶²³ Ohio Rev. Code § 149.43(C).

⁶²⁴ Ohio Rev. Code § 149.43(C).

⁶²⁵ 51 Okl. St. § 24A.2.

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁶²⁷ The statutory definition of agencies includes those that are supported in whole or in part by public funds.⁶²⁸

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Certain records of criminal investigations conducted by law enforcement agencies⁶²⁹
- Personnel records if disclosure would unreasonably invade a person's privacy⁶³⁰
- Litigation and investigatory records⁶³¹
- Records prepared to prevent or respond to terrorist attacks or other security threats⁶³²
- Records relating to internal personnel investigations⁶³³

Oklahoma law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁶³⁴

What fees are associated with public records requests?

An agency may charge up to \$0.25 per page for a copy of the record.⁶³⁵ There is no search fee if the record is sought in conjunction with the public interest.⁶³⁶

What is the procedure for obtaining records?

The request can usually be made in writing or orally with the public official at the department that has the information sought. The request must be responded to within a "reasonable" amount of time.⁶³⁷ If a state agency denies a request, there is no recourse except through the court system.⁶³⁸

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The only

⁶²⁶ 51 Okl. St. § 24A.3.1.
⁶²⁷ 51 Okl. St. § 24A.3.2.
⁶²⁸ 51 Okl. St. § 24A.3.2.
⁶²⁹ 51 Okl. St. § 24A.8.
⁶³⁰ 51 Okl. St. § 24A.7.
⁶³¹ 51 Okl. St. § 24A.12.
⁶³² 51 Okl. St. § 24A.28.
⁶³³ 51 Okl. St. § 24A.7.A.1.
⁶³⁴ 51 Okl. St. § 24A.5.2.
⁶³⁵ 51 Okl. St. § 24A.5.3.
⁶³⁶ 51 Okl. St. § 24A.5.3.
⁶³⁷ 51 Okl. St. § 24A.5.5.
⁶³⁸ 51 Okl. St. § 24A.17.B.

sanctions for noncompliance are attorneys' fees.⁶³⁹

OREGON

Who can request public records?

"Every person" has the right to inspect public records.⁶⁴⁰

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁶⁴¹

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁶⁴² A private corporation that performs a municipal function is subject to the open records law. Courts may look at a number of factors when determining whether a private corporation will be subject to the open records law, including any implementing statutes, governmental powers granted or services performed, the scope of governmental control, the status of employees, and the level of financial and nonfinancial support.⁶⁴³

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes. However, there are two types of exemptions in the law itself. Exemptions can be either conditional or unconditional. Conditional exemptions may only be disclosed if the requestor proves it is in the public interest to disclose.⁶⁴⁴ Unconditional exemptions may never be disclosed, unless there is a provision in the statute.⁶⁴⁵

Public Records Law Conditional Exemptions

- Certain records of criminal investigations conducted by law enforcement agencies⁶⁴⁶
- Investigatory information relating to unfair labor practice complaints⁶⁴⁷

⁶³⁹ 51 Okl. St. § 24A.17.B.

⁶⁴⁰ ORS 192.420.

⁶⁴¹ ORS 192.410(4)(a).

⁶⁴² ORS 192.410(3).

⁶⁴³ Marks v. McKenzie High School Fact Finding Team, 878 P.2d 417 (Ore. 1994).

⁶⁴⁴ ORS 192.501.

⁶⁴⁵ ORS 192.502.

⁶⁴⁶ ORS 192.501(3).

⁶⁴⁷ ORS 192.501(9).

Public Records Law Unconditional Exemptions

- Public employee retirement records⁶⁴⁸
- Personnel records⁶⁴⁹
- Workers compensation claim records⁶⁵⁰

Other Statutory Exemptions

- Medical records⁶⁵¹

Oregon law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁶⁵²

What fees are associated with public records requests?

A reasonable fee may be charged by the agency.⁶⁵³ A fee waiver may be sought if the disclosure would be in the public interest.⁶⁵⁴

What is the procedure for obtaining records?

The request must be made in writing to the agency which has the information sought. There is no time limit for the agency to respond, but it must be reasonable.⁶⁵⁵ If the request is denied by a state public body, appeal is made to the Attorney General.⁶⁵⁶ If the denial is made by a county, city, or other local body, the appeal is made to the district attorney of that jurisdiction.⁶⁵⁷ If the request is denied by an elected official, however, the appeal must be taken directly to court.⁶⁵⁸ The appellate bodies, except the courts, have seven days to rule on the appeal. If the appeal is denied, then the requestor can proceed to the court system.⁶⁵⁹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.⁶⁶⁰

⁶⁴⁸ ORS 192.502(12).
⁶⁴⁹ ORS 192.502(2).
⁶⁵⁰ ORS 192.502(20).
⁶⁵¹ ORS 192.525.
⁶⁵² ORS 192.505.
⁶⁵³ ORS 192.440(4)(a).
⁶⁵⁴ ORS 192.440(5).
⁶⁵⁵ ORS 192.440(b).
⁶⁵⁶ ORS 192.450.
⁶⁵⁷ ORS 192.460.
⁶⁵⁸ ORS 192.480.
⁶⁵⁹ ORS 192.480.
⁶⁶⁰ ORS 192.490(3).

PENNSYLVANIA

Who can request public records?

A “legal resident of the U.S.” has the right to inspect public records.⁶⁶¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁶⁶²

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁶⁶³

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

*Public Records Law Exemptions*⁶⁶⁴

- Certain records of criminal investigations conducted by law enforcement agencies⁶⁶⁵
- A record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings⁶⁶⁶
- Pre-decisional deliberations of an agency⁶⁶⁷
- Medical records⁶⁶⁸
- Records prepared to prevent or respond to terrorist attacks or other security threats⁶⁶⁹

Other Statutory Exemptions

- Mental health records⁶⁷⁰

Pennsylvania law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁶⁷¹

⁶⁶¹ 65 Pa. Cons. Stat. § 67.102.

⁶⁶² 65 Pa. Cons. Stat. § 67.102.

⁶⁶³ 65 Pa. Cons. Stat. § 67.102.

⁶⁶⁴ 65 Pa. Cons. Stat. § 708(a).

⁶⁶⁵ 65 Pa. Cons. Stat. § 67.708(b)(16).

⁶⁶⁶ 65 Pa. Cons. Stat. § 67.708(b)(8).

⁶⁶⁷ 65 Pa. Cons. Stat. § 67.708(b)(10)(i).

⁶⁶⁸ 65 Pa. Cons. Stat. § 67.708(b)(5).

⁶⁶⁹ 65 Pa. Cons. Stat. § 67.708(b)(2).

⁶⁷⁰ 50 Pa. Cons. Stat. § 7111.

⁶⁷¹ 65 Pa. Cons. Stat. § 67.706.

What fees are associated with public records requests?

The law permits fees to cover the costs of duplication and postage costs.⁶⁷² Other reasonable fees may be charged if the agency “necessarily incurs” them.⁶⁷³

What is the procedure for obtaining records?

The request may be oral, but an appeal can only be pursued if the request is written. The request should be sent to the open records officer of the agency.⁶⁷⁴ The officer has five business days to respond.⁶⁷⁵ If a request is denied or unanswered, the requestor has fifteen days to appeal to the Office of Open Records.⁶⁷⁶ If the appeal is denied, the requestor has thirty days to seek relief in the court system.⁶⁷⁷

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The only sanctions for noncompliance are attorneys’ fees, which may only be granted if the agency was found to have acted with wanton disregard.⁶⁷⁸

RHODE ISLAND

Who can request public records?

“Every person” has the right to inspect public records.⁶⁷⁹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁶⁸⁰

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁶⁸¹ The statutory definition of agencies can include private entities, if the record is in the possession of a party which performs a

⁶⁷² 65 Pa. Cons. Stat. §67.1307(b)(2).

⁶⁷³ 65 Pa. Cons. Stat. §67.1307(g).

⁶⁷⁴ 65 Pa. Cons. Stat. §67.703.

⁶⁷⁵ 65 Pa. Cons. Stat. §67.901.

⁶⁷⁶ 65 Pa. Cons. Stat. §67.1101(a)(1).

⁶⁷⁷ 65 Pa. Cons. Stat. §67.1301(a).

⁶⁷⁸ 65 Pa. Cons. Stat. §67.1304(a)(1)(2).

⁶⁷⁹ R.I. Gen. Laws § 38-2-3(a).

⁶⁸⁰ R.I. Gen. Laws § 38-2-2(4).

⁶⁸¹ R.I. Gen. Laws § 38-2-2(1).

governmental function, or is acting on behalf of or in place of any agency.⁶⁸²

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Personnel records⁶⁸³
- Law enforcement records⁶⁸⁴
- Reports and statements of strategy or negotiation involving labor negotiations or collective bargaining⁶⁸⁵
- Preliminary notes and drafts of an agency⁶⁸⁶

Other Statutory Exemptions

- Mental health records⁶⁸⁷

Rhode Island law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁶⁸⁸

What fees are associated with public records requests?

The fees charged must reflect the actual cost of retrieving the record, and may not exceed \$0.15 cent per page.⁶⁸⁹ A court may reduce the fee if it finds the information is in the public interest.⁶⁹⁰

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought.⁶⁹¹ The custodian has 10 business days to respond.⁶⁹² If the request is denied, the requestor can appeal directly to the court system, or seek relief from the attorney general.⁶⁹³ The appeal must be made within 3 years.⁶⁹⁴

⁶⁸² R.I. Gen. Laws § 38-2-2(1).
⁶⁸³ R.I. Gen. Laws § 38-2-2(5)(i)(A)(I).
⁶⁸⁴ R.I. Gen. Laws § 38-2-2(5)(i)(D).
⁶⁸⁵ R.I. Gen. Laws § 38-2-2(5)(i)(H).
⁶⁸⁶ R.I. Gen. Laws § 38-2-2(5)(i)(K).
⁶⁸⁷ R.I. Gen. Laws § 40.1-5-26.
⁶⁸⁸ R.I. Gen. Laws § 38-2-2(4)(ii).
⁶⁸⁹ R.I. Gen. Laws § 38-2-4(a).
⁶⁹⁰ R.I. Gen. Laws § 38-2-4(e).
⁶⁹¹ R.I. Gen. Laws § 38-2-3(d).
⁶⁹² R.I. Gen. Laws § 38-2-7(a).
⁶⁹³ R.I. Gen. Laws § 38-2-8(b), § 38-2-8(d).
⁶⁹⁴ R.I. Gen. Laws § 9-1-25.

Who enforces public records laws? Are there sanctions for noncompliance?

The law allows the attorney general to enforce the law in court, but the requestor can also pursue relief in the court system. If the requestor succeeds in court, the requestor can receive attorneys' fees. However, if the requestor is unsuccessful and the court finds that the suit was baseless, the requestor may have to reimburse the state.⁶⁹⁵ A willful violation of the law is a misdemeanor.⁶⁹⁶

SOUTH CAROLINA

Who can request public records?

"Any person" has the right to inspect public records.⁶⁹⁷

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁶⁹⁸

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁶⁹⁹ The statutory definition of agencies includes those that are supported in whole or in part by public funds.⁷⁰⁰

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

*Public Records Law Exemptions*⁷⁰¹

- Information that would constitute an unreasonable invasion of personal privacy⁷⁰²
- Law enforcement records⁷⁰³
- Records prepared to prevent or respond to terrorist attacks or other security threats⁷⁰⁴

Other Statutory Exemptions

- Mental health records⁷⁰⁵

⁶⁹⁵ R.I. Gen. Laws § 38-2-9.

⁶⁹⁶ R.I. Gen. Laws § 38-2-9(d).

⁶⁹⁷ S.C. Code Ann. § 30-4-30(a).

⁶⁹⁸ S.C. Code Ann. § 30-4-20(c).

⁶⁹⁹ S.C. Code Ann. § 30-4-20(a).

⁷⁰⁰ S.C. Code Ann. § 30-4-20(a).

⁷⁰¹ S.C. Code Ann. § 30-4-40(a).

⁷⁰² S.C. Code Ann. § 30-4-40(a)(2).

⁷⁰³ S.C. Code Ann. § 30-4-40(a)(3).

⁷⁰⁴ S.C. Code Ann. § 30-4-45.

South Carolina law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁷⁰⁶

What fees are associated with public records requests?

The fees charged must reflect the actual cost of retrieving the record.⁷⁰⁷ Fees must be waived if it is in the public interest.⁷⁰⁸

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. The agency has 15 days to respond to the request.⁷⁰⁹ If the request is denied, the requestor must seek relief in court within one year of the denial.⁷¹⁰

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.⁷¹¹ A willful violation of the law is a misdemeanor.⁷¹²

SOUTH DAKOTA

Who can request public records?

"All citizens of this state, and all other persons" have the right to inspect public records.⁷¹³

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁷¹⁴

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁷¹⁵ There is no discussion of whether private bodies that accept government funds are subject to the law, but the law is to be construed

⁷⁰⁵ S.C. Code Ann. § 44-22-100.

⁷⁰⁶ S.C. Code Ann. § 30-4-40(b).

⁷⁰⁷ S.C. Code Ann. § 30-4-30(b).

⁷⁰⁸ S.C. Code Ann. § 30-4-30(b).

⁷⁰⁹ S.C. Code Ann. § 30-4-30(c).

⁷¹⁰ S.C. Code Ann. § 30-4-100(a).

⁷¹¹ S.C. Code Ann. § 30-4-100(b).

⁷¹² S.C. Code Ann. § 30-4-110.

⁷¹³ SDCL § 1-27-1.

⁷¹⁴ SDCL § 1-27-1.1.

⁷¹⁵ SDCL § 1-27-1.1

liberally.⁷¹⁶

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Medical records⁷¹⁷
- Law enforcement records⁷¹⁸
- Personal correspondence, memoranda, and notes of any public employee⁷¹⁹
- Records which, if disclosed, would constitute an unreasonable release of personal information⁷²⁰
- Records prepared to prevent or respond to terrorist attacks or other security threats⁷²¹

Other Statutory Exemptions

- Mental health records⁷²²

South Dakota law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁷²³

What fees are associated with public records requests?

The fees charge must be the actual cost of retrieving the records.⁷²⁴ Fees may be reduced or waived if it is in the public interest.⁷²⁵

What is the procedure for obtaining records?

The request may be oral, but an appeal can only be pursued if the request is written. The request should be sent to the custodian of the agency which has the information sought.⁷²⁶ The agency has 10 days to respond to the request.⁷²⁷ If the request is denied, the requestor can seek relief either through the Office of Hearing Examiners or in court within 90 days of the denial.⁷²⁸ If the request is denied in the Office of Hearing Examiners, the requestor can appeal to the circuit

⁷¹⁶ SDCL § 1-27-1.3.

⁷¹⁷ SDCL § 1-27-1.5(2).

⁷¹⁸ SDCL § 1-27-1.5(5).

⁷¹⁹ SDCL § 1-27-1.5(19).

⁷²⁰ SDCL § 1-27-1.5(22).

⁷²¹ SDCL § 1-27-1.5(19).

⁷²² SDCL §§ 27A-12-25.

⁷²³ SDCL § 1-27-1.10.

⁷²⁴ SDCL § 1-27-35.

⁷²⁵ SDCL § 1-27-36.

⁷²⁶ SDCL § 1-27-37.

⁷²⁷ SDCL § 1-27-37.

⁷²⁸ SDCL § 1-27-38.

court.⁷²⁹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. There are no sanctions for noncompliance.

TENNESSEE

Who can request public records?

The Tennessee public records law states that “any citizen of this state” has the right to request and inspect.⁷³⁰ However, a federal appellate court has held that a state is not allowed to restrict public records laws to its own citizens.⁷³¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁷³²

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁷³³ The statutory definition of agencies can include private entities, if the record is in the possession of a party which the government has delegated its responsibility to a private entity.⁷³⁴

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Medical records⁷³⁵
- Law enforcement records⁷³⁶
- Information directly related to the security of any government building⁷³⁷

⁷²⁹ SDCL § 1-27-41.

⁷³⁰ T.C.A. § 10-7-503 (a)(2).

⁷³¹ Lee v. Minner, 458 F.3d 194 (3d Cir. 2006) (holding that access to public records is protected by the Constitution and Delaware could not restrict its public records law to its own citizens).

⁷³² T.C.A. § 10-7-301.

⁷³³ T.C.A. § 10-7-301(1).

⁷³⁴ T.C.A. § 10-7-503(a)(6).

⁷³⁵ T.C.A. § 10-7-504(a)(1).

⁷³⁶ T.C.A. § 10-7-504(a)(2).

⁷³⁷ T.C.A. § 10-7-504(m).

Other Statutory Exemptions

- Workers compensation records⁷³⁸

Tennessee case law approves of departments separating exempt and non-exempt material in the same source and releasing the non-exempt material.⁷³⁹

What fees are associated with public records requests?

The fees charged must be reasonable.⁷⁴⁰ There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. The agency has 7 days to respond to the request.⁷⁴¹ If the request is denied, the requestor must seek relief in court.⁷⁴²

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful and the court deems that the violation was willful.⁷⁴³

TEXAS

Who can request public records?

"Each person" has the right to inspect public records.⁷⁴⁴

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁷⁴⁵

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁷⁴⁶ The statutory definition of agencies

⁷³⁸ T.C.A. § 63-1-117.

⁷³⁹ Eldridge v. Putnam County, 86 S.W.3d 572, 574 (Tenn. Ct. App. 2002)

⁷⁴⁰ T.C.A. § 10-7-506(b).

⁷⁴¹ T.C.A. § 10-7-503(a)(2)(B).

⁷⁴² T.C.A. § 10-7-503(a)(3).

⁷⁴³ T.C.A. § 10-7-505(g).

⁷⁴⁴ Tex. Gov't Code Ann. § 552.001.

⁷⁴⁵ Tex. Gov't Code Ann. § 552.002.

⁷⁴⁶ Tex. Gov't Code Ann. § 552.003.

includes private entities that are supported in part or in whole by public funds.⁷⁴⁷

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Law enforcement records⁷⁴⁸
- Preliminary notes and drafts of an agency⁷⁴⁹
- Personnel records of public employees⁷⁵⁰

Other Statutory Exemptions

- Records prepared to prevent or respond to terrorist attacks or other security threats⁷⁵¹

Texas case law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁷⁵²

What fees are associated with public records requests?

The fees charged must be the actual cost of retrieving the records, and can include overhead costs.⁷⁵³ The fee may be waived if the agency determines it is in the public interest.⁷⁵⁴

What is the procedure for obtaining records?

The request may be oral, but the appellate process can only be pursued if the request is written.⁷⁵⁵ The request should be sent to the custodian of the agency. If the agency wants to deny the request, they must ask for an opinion from the attorney general within 10 days.⁷⁵⁶ If the attorney general denies the request, or the agency ignores the attorney general's opinion, the requestor can seek relief in court.⁷⁵⁷

Who enforces public records laws? Are there sanctions for noncompliance?

The law allows the attorney general to enforce the law in court, but the requestor can also pursue relief in the court system. The requestor can seek attorneys' fees if the suit is successful.⁷⁵⁸ A

⁷⁴⁷ Tex. Gov't Code Ann. § 552.003(1)(A)(xii).

⁷⁴⁸ Tex. Gov't Code Ann. § 552.108.

⁷⁴⁹ Tex. Gov't Code Ann. § 552.111.

⁷⁵⁰ Tex. Gov't Code Ann. § 552.152.

⁷⁵¹ Tex. Gov't Code Ann. § 418.176.

⁷⁵² Indus. Found. v. Tex. Indus. Accident Bd., 540 S.W.2d 668, 686 (Tex. 1976).

⁷⁵³ Tex. Gov't Code Ann. § 552.261.

⁷⁵⁴ Tex. Gov't Code Ann. § 552.267.

⁷⁵⁵ Tex. Gov't Code Ann. § 552.301(a).

⁷⁵⁶ Tex. Gov't Code Ann. § 552.301(a).

⁷⁵⁷ Tex. Gov't Code Ann. § 552.321(a).

⁷⁵⁸ Tex. Gov't Code Ann. § 552.323(a).

willful violation of the law is a misdemeanor.⁷⁵⁹

UTAH

Who can request public records?

“Every person” has the right to inspect public records.⁷⁶⁰

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁷⁶¹

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁷⁶² The statutory definition of agencies does not include private entities.⁷⁶³

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Medical records⁷⁶⁴
- Law enforcement records⁷⁶⁵
- Records concerning a governmental entity’s strategy about collective bargaining or pending litigation⁷⁶⁶
- Records the government classifies as private or protected can only be requested by the person or entity involved, unless the agency determines that disclosure is in the public interest⁷⁶⁷

Other Statutory Exemptions

- Mental health records⁷⁶⁸

Utah law requires departments to separate exempt and non-exempt material in the same source

⁷⁵⁹ Tex. Gov’t Code Ann. § 552.353(a).

⁷⁶⁰ Utah Code Ann. § 63G-2-201(1).

⁷⁶¹ Utah Code Ann. § 63G-2-201(3).

⁷⁶² Utah Code Ann. § 63G-2-103(11)(a).

⁷⁶³ Utah Code Ann. § 63G-2-103(11)(a).

⁷⁶⁴ Utah Code Ann. §§ 63G-2-302(1)(b).

⁷⁶⁵ Utah Code Ann. §§ 63G-2-302(9).

⁷⁶⁶ Utah Code Ann. §§ 63G-2-305(23).

⁷⁶⁷ Utah Code Ann. § 63G-2-201(5).

⁷⁶⁸ Utah Code Ann. §58-60-114(1).

and release the non-exempt material.⁷⁶⁹

What fees are associated with public records requests?

The fees charged must be reasonable and reflect the actual cost of retrieving the records.⁷⁷⁰ The government encourages agencies to grant fee waivers when the information is in the public interest.

What is the procedure for obtaining records?

The request must be in writing and mailed to the custodian of records at the agency.⁷⁷¹ The custodian has 10 days to respond to the request. If the request is denied, the requestor can appeal to either the State Records Committee or directly to the court system.⁷⁷² If the requestor chooses to go to the State Records Committee first, it must be filed within 30 days. If the Committee denies the appeal, the requestor can then proceed to the court system as well. This suit must be filed within 30 days of either the original denial or the Committee's denial.⁷⁷³

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court.⁷⁷⁴ The requestor can seek attorneys' fees if the suit is successful.⁷⁷⁵

VERMONT

Who can request public records?

"Any person" has the right to inspect public records.⁷⁷⁶

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁷⁷⁷

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁷⁷⁸ The statutory definition of agencies

⁷⁶⁹ Utah Code Ann. § 63G-2-308(1).

⁷⁷⁰ Utah Code Ann. § 63G-2-203(1).

⁷⁷¹ Utah Code Ann. § 63G-2-204(3)(a).

⁷⁷² Utah Code Ann. § 63G-2-401.

⁷⁷³ Utah Code Ann. § 63G-2-404.

⁷⁷⁴ Utah Code Ann. § 63G-2-404.

⁷⁷⁵ Utah Code Ann. § 63G-2-802(2).

⁷⁷⁶ 1 V.S.A. § 316(a).

⁷⁷⁷ 1 V.S.A. § 317(b).

⁷⁷⁸ 1 V.S.A. § 317(a)(2).

does not include private entities.⁷⁷⁹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Personal documents such as medical records and financial records⁷⁸⁰
- Law enforcement records⁷⁸¹
- Records of interdepartmental and intradepartmental communications⁷⁸²
- Records of the office of internal investigation of the department of public safety⁷⁸³

Vermont law is unclear as to whether agencies are required to separate exempt and non-exempt material in the same source and release the non-exempt material. However, several cases state that 1 V.S.A. § 319(a) implies that agencies are required to release the non-exempt material.⁷⁸⁴

What fees are associated with public records requests?

Agencies may only charge a fee that reflects the actual cost of retrieving the documents.⁷⁸⁵
There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. The agency has three business days to respond to the request, though the agency can delay for an additional seven business days.⁷⁸⁶ If the agency denies the request, the requestor must appeal to the agency head, which must respond within 5 business days.⁷⁸⁷ If the appeal is denied, there is no recourse except through the court system.⁷⁸⁸

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.⁷⁸⁹

⁷⁷⁹ 1 V.S.A. § 317(a)(2).

⁷⁸⁰ 1 V.S.A. § 317(c)(7).

⁷⁸¹ 1 V.S.A. § 317(c)(5).

⁷⁸² 1 V.S.A. § 317(c)(17).

⁷⁸³ 1 V.S.A. § 317(c)(18).

⁷⁸⁴ Herald Ass'n Inc. v. Dean, 816 A.2d 469, 477 (Vt. 2002), Douglas v. Windham Superior Court, 597 A.2d 774 (Vt. 1991).

⁷⁸⁵ 1 V.S.A. § 316(b).

⁷⁸⁶ 1 V.S.A. § 318(a)(2), § 318(a)(5).

⁷⁸⁷ 1 V.S.A. § 318(c)(1).

⁷⁸⁸ 1 V.S.A. § 319(a).

⁷⁸⁹ 1 V.S.A. § 319(d).

VIRGINIA

Who can request public records?

Public records requests in Virginia are limited to citizens of the state.⁷⁹⁰ A federal appellate court has held that a state is not allowed to restrict public records laws to its own citizens, so this restriction may be unconstitutional.⁷⁹¹

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁷⁹²

What agencies or bodies are subject to open records laws?

All agencies or bodies that are supported in whole or in part by public funds are subject to the law.⁷⁹³ The issue of whether an entity is supported principally by public funds is a question of fact.⁷⁹⁴

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes. Additionally, there are common law exemptions.

Public Records Law Exemptions

- Law enforcement records and criminal investigation records⁷⁹⁵
- Employment records⁷⁹⁶
- Public employee retirement records⁷⁹⁷
- Records relating to negotiation and award of a specific contract where competition or bargaining is involved⁷⁹⁸
- Records prepared to prevent or respond to terrorist attacks or other security threats⁷⁹⁹

Other Statutory Exemptions

- Pardon and parole records⁸⁰⁰

⁷⁹⁰ Va. Code Ann. § 2.2-3704(A).

⁷⁹¹ Lee v. Minner, 458 F.3d 194 (3d Cir. 2006) (holding that access to public records is protected by the Constitution and Delaware could not restrict its public records law to its own citizens).

⁷⁹² Va. Code Ann. § 2.2-3701.

⁷⁹³ Va. Code Ann. § 2.2-3701.

⁷⁹⁴ Wigand v. Wilkes, 65 Va. Cir. 437, 438 (Norfolk Cir. Ct. 2004).

⁷⁹⁵ Va. Code Ann. § 2.2-3706.

⁷⁹⁶ Va. Code Ann. § 2.2-3705.5(4).

⁷⁹⁷ Va. Code Ann. § 2.2-3705.7(12).

⁷⁹⁸ Va. Code Ann. § 2.2-3705.1(12).

⁷⁹⁹ Va. Code Ann. § 2.2-3705.2(4).

Common Law Exemptions

- The Courts have created an executive privilege for records of the Governor⁸⁰¹

Virginia law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁸⁰²

What fees are associated with public records requests?

Agencies may only charge a fee that reflects the actual cost of retrieving the documents.⁸⁰³ There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. The agency has five business days to respond to the request, though the agency can delay for an additional seven days.⁸⁰⁴ If an agency denies a request, there is no recourse except through the court system and suit should be filed without unreasonable delay.⁸⁰⁵

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.⁸⁰⁶ Additionally, any person who willfully and knowingly violates the provisions of the law is guilty of a misdemeanor.⁸⁰⁷

WASHINGTON

Who can request public records?

"Any person" has the right to inspect public records.⁸⁰⁸

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁸⁰⁹

⁸⁰⁰ Va. Code Ann. § 37.2-912(B).

⁸⁰¹ Taylor v. Worrell Enterprises, 409 S.E.2d 136 (1991).

⁸⁰² Va. Code Ann. § 2.2-3704(B)(2).

⁸⁰³ Va. Code Ann. § 2.2-3704(F).

⁸⁰⁴ Va. Code Ann. § 2.2-3704(B).

⁸⁰⁵ Va. Code Ann. § 2.2-3713(A).

⁸⁰⁶ Va. Code Ann. § 2.2-3713(D).

⁸⁰⁷ Va. Code Ann. § 2.2-3714.

⁸⁰⁸ RCW 42.56.080.

⁸⁰⁹ RCW 42.56.010(3).

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law. Private entities may be subject to the law if they are found to be “functionally equivalent” to a public agency.⁸¹⁰ Courts may look at a number of factors when determining whether a private entity will be subject to the open records law, including any implementing statutes, governmental powers granted or services performed, the level of government involvement, and whether the government funds the entity.⁸¹¹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes. In addition, records that, if disclosed, would violate a person’s right to privacy, are exempt from public inspection.⁸¹²

*Public Records Law Exemptions*⁸¹³

- Personnel records⁸¹⁴
- Law enforcement records⁸¹⁵
- Intra-agency deliberative records⁸¹⁶
- Medical records⁸¹⁷
- Records prepared to prevent or respond to terrorist attacks or other security threats⁸¹⁸

Other Statutory Exemptions

- Criminal records⁸¹⁹

Washington law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁸²⁰

What fees are associated with public records requests?

Agencies may only charge a fee that reflects the actual cost of retrieving the documents.⁸²¹ There is no provision for a fee waiver.

⁸¹⁰ Telford v. Thurston County Bd. of Com’rs, 974 P.2d 886 (Wash. 1999).

⁸¹¹ Clarke v. Tri-Cities Animal Care & Control Shelter, 181 P.3d 881 (Wash.2008).

⁸¹² RCW 42.56.050.

⁸¹³ RCW 42.56.

⁸¹⁴ RCW 42.56.230.

⁸¹⁵ RCW 42.56.240.

⁸¹⁶ RCW 42.56.280.

⁸¹⁷ RCW 42.56.360(2).

⁸¹⁸ RCW 42.56.420(1).

⁸¹⁹ RCW 10.97.

⁸²⁰ RCW 42.56.210(1).

⁸²¹ RCW 42.56.120.

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. The agency has five business days to respond to the request.⁸²² If an agency denies a request, there is no recourse except through the court system and suit should be filed within one year of the denial.⁸²³ The requestor can also seek an opinion from the attorney general, but this is not binding and is only seen as persuasive by the court.⁸²⁴

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.⁸²⁵ Additionally, a court can fine an agency between \$5 and \$100 a day if it chooses.⁸²⁶

WEST VIRGINIA

Who can request public records?

"Every person" has the right to inspect public records.⁸²⁷

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁸²⁸

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law, including all organizations or bodies created by the government or primarily funded by public funds.⁸²⁹

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Personal information (including medical and personal records)⁸³⁰

⁸²² RCW 42.56.520.

⁸²³ RCW 42.56.550(6).

⁸²⁴ RCW 42.56.530.

⁸²⁵ RCW 42.56.550(4).

⁸²⁶ RCW 42.56.550(4).

⁸²⁷ W. Va. Code § 29B-1-3(1).

⁸²⁸ W. Va. Code § 29B-1-2(4).

⁸²⁹ W. Va. Code § 29B-1-2(3).

⁸³⁰ W. Va. Code § 29B-1-4(a)(1).

- Law enforcement records⁸³¹
- Internal memorandum⁸³²
- Records prepared to prevent or respond to terrorist attacks or other security threats⁸³³

Other Statutory Exemptions

- Certain tax laws⁸³⁴

West Virginia law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁸³⁵

What fees are associated with public records requests?

Agencies may only charge a fee that reflects the actual cost of retrieving the documents.⁸³⁶
There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. The agency has five business days to respond to the request.⁸³⁷ If a state agency denies a request, there is no recourse except through the court system.⁸³⁸

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful.⁸³⁹ Additionally, any person who willfully and knowingly violates the provisions of the law is guilty of a misdemeanor.⁸⁴⁰

WISCONSIN

Who can request public records?

"Any requestor" has the right to inspect public records.⁸⁴¹

⁸³¹ W. Va. Code § 29B-1-4(a)(4).

⁸³² W. Va. Code § 29B-1-4(a)(8).

⁸³³ W. Va. Code § 29B-1-4(a)(9).

⁸³⁴ W. Va. Code § 11-10-5s(b)(1).

⁸³⁵ Farley v. Worley, 599 S.E.2d 835, 847 (W. Va. 2004).

⁸³⁶ W. Va. Code § 29B-1-3(5).

⁸³⁷ W. Va. Code § 29B-1-3(4).

⁸³⁸ W. Va. Code § 29B-1-3(4)(c).

⁸³⁹ W. Va. Code § 29B-1-7.

⁸⁴⁰ W. Va. Code § 29B-1-6.

⁸⁴¹ Wis. Stat. § 19.35(1)(a).

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁸⁴²

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law. The statutory definition of agencies includes nonprofit corporations which receive more than 50% of their funds from the public and which provide services related to public health or safety.⁸⁴³ It also includes records kept by private entities pursuant to government contracts.⁸⁴⁴

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes.

Public Records Law Exemptions

- Employee personnel records⁸⁴⁵
- Law enforcement records⁸⁴⁶

Other Statutory Exemptions

- Arson investigation records⁸⁴⁷
- Medical records⁸⁴⁸

Wisconsin law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁸⁴⁹

What fees are associated with public records requests?

Agencies may only charge a fee that reflects the actual cost of retrieving the documents.⁸⁵⁰ An agency may waive or reduce a fee if it is in the public interest.⁸⁵¹

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. However, the request must be made in writing in order for the requestor to be able to challenge a

⁸⁴² Wis. Stat. § 19.32(2).

⁸⁴³ Wis. Stat. § 19.32(1).

⁸⁴⁴ Wis. Stat. § 19.36(3).

⁸⁴⁵ Wis. Stat. § 19.36(10).

⁸⁴⁶ Wis. Stat. § 19.36(2).

⁸⁴⁷ Wis. Stat. § 165.55(14).

⁸⁴⁸ Wis. Stat. § 50.09(1)(f)(3).

⁸⁴⁹ Wis. Stat. § 19.36(6).

⁸⁵⁰ Wis. Stat. § 19.35(3)(a).

⁸⁵¹ Wis. Stat. § 19.35(3)(e).

denial.⁸⁵² The agency must respond as soon as practicable and without delay.⁸⁵³ If a state agency denies a request, there is no recourse except through the court system.⁸⁵⁴

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. The requestor can seek attorneys' fees if the suit is successful, as well as punitive damages if the agency behaved "arbitrarily and capriciously."⁸⁵⁵ Additionally, any person who willfully and knowingly violates the provisions of the law is guilty of a misdemeanor.⁸⁵⁶

WYOMING

Who can request public records?

"Any person" has the right to inspect public records.⁸⁵⁷

What types of records must be made available to the public?

The statute is written very broadly and applies to any form of communication or record kept.⁸⁵⁸

What agencies or bodies are subject to open records laws?

All agencies and public bodies are subject to the law.⁸⁵⁹ The statutory definition of agencies does not include private entities.⁸⁶⁰

What are some of the relevant exemptions from disclosure?

There are exemptions in the public records law itself as well as other statutes. The public records law itself specifically prohibits disclosure of records if it is in the public interest.⁸⁶¹ In addition, records that are expressly made confidential or nonpublic by a specific statute are exempted.

Public Records Law Exemptions

- Medical records⁸⁶²
- Law enforcement records⁸⁶³

⁸⁵² Wis. Stat. § 19.37(1).

⁸⁵³ Wis. Stat. § 19.35(4)(a).

⁸⁵⁴ Wis. Stat. § 19.37(1).

⁸⁵⁵ Wis. Stat. § 19.37(2), § 19.37(3).

⁸⁵⁶ Wis. Stat. § 19.37(4).

⁸⁵⁷ Wyo. Stat. § 16-4-202(a).

⁸⁵⁸ Wyo. Stat. § 16-4-201(a)(v).

⁸⁵⁹ Wyo. Stat. § 16-4-201(a)(v).

⁸⁶⁰ Wyo. Stat. § 16-4-201(a)(v).

⁸⁶¹ Wyo. Stat. § 16-4-203(b).

⁸⁶² Wyo. Stat. § 16-4-203(d)(i).

- Personnel records⁸⁶⁴
- Records prepared to prevent or respond to terrorist attacks or other security threats⁸⁶⁵

Wyoming law requires departments to separate exempt and non-exempt material in the same source and release the non-exempt material.⁸⁶⁶

What fees are associated with public records requests?

Agencies may only charge a fee that reflects the actual cost of retrieving the documents.⁸⁶⁷ There is no provision for a fee waiver.

What is the procedure for obtaining records?

The request can be made orally or in writing to the agency which has the information sought. The agency must respond in a reasonable time.⁸⁶⁸ If the request is denied, the proper recourse is in the court system.⁸⁶⁹

Who enforces public records laws? Are there sanctions for noncompliance?

The law does not have an enforcement provision and relief must be sought in court. There is no provision for the awarding of attorneys fees. Additionally, any person who willfully and knowingly violates the provisions of the law is guilty of a misdemeanor.⁸⁷⁰

⁸⁶³ Wyo. Stat. § 16-4-203(b)(i).

⁸⁶⁴ Wyo. Stat. § 16-4-203(d)(iii).

⁸⁶⁵ Wyo. Stat. § 16-4-203(b)(vi)(D).

⁸⁶⁶ Sheridan Newspapers Inc. v. City of Sheridan, 660 P.2d 785, 797 (Wyo. 1983).

⁸⁶⁷ Wyo. Stat. § 16-4-204(b).

⁸⁶⁸ Wyo. Stat. § 16-4-202(a).

⁸⁶⁹ Wyo. Stat. § 16-4-203(f).

⁸⁷⁰ Wyo. Stat. § 16-4-205.

APPENDIX

[DATE]

[AGENCY CONTACT PERSON]
[AGENCY NAME]
[AGENCY STREET ADDRESS]
[AGENCY CITY/STATE/ZIP]

Dear [Mr./Mrs. AGENCY CONTACT]:

This is a request under the [NAME OF STATE'S PUBLIC RECORDS LAW INCLUDING CITATION]. I am making this request on behalf of my client, [CLIENT'S NAME]. In this capacity, I wish to inspect all records in your custody and control pertaining to the following:

1. [INSERT REQUEST HERE, INCLUDING ANY RELEVANT DATES]; and
2. [INSERT SECOND REQUEST HERE]

If all or any part of this request is denied, I request that I be provided with a written statement of the grounds for the denial. If you determine that some portions of the requested records are exempt from disclosure, please provide me with the portions that can be disclosed.

Please advise me as to the cost, if any, for inspecting the records described above. I anticipate that I will want copies of some or all of the records sought. If you have adopted a fee schedule for obtaining copies of records and other rules or regulations implementing the Act, please send me a copy. Additionally, I am requesting a fee waiver or reduction under [FEE WAIVER LAW HERE] because this information is in the public interest. [INSERT REASON FOR WHY IT IS IN THE PUBLIC INTEREST].

I look forward to receiving disclosable records promptly and, in any event, to a decision about all of the requested records within [STATUTORY TIME LIMIT]. A failure to respond to the request within the statutorily required [TIME LIMIT] will be considered a denial by the applicant and appropriate judicial relief will be sought. Thank you for your cooperation. If you have any questions regarding this request, please telephone me at [YOUR TELEPHONE NUMBER] or email me at [YOUR EMAIL ADDRESS].

Sincerely,
[YOUR NAME]
[YOUR TITLE]