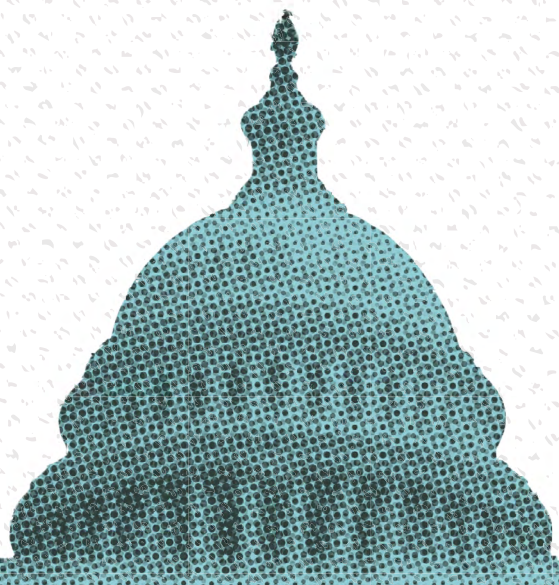


OPEN MY GOVERNMENT

A Citizen's Guide to Public Records Requests



GOLDWATER INSTITUTE

OpenMyGovernment.org

TABLE OF CONTENTS

What Is a Public Records Request? - Page 3

How to Make a Public Records Request - Page 5

State Public Records Request Template - Page 10

State Public Records Request Statutes - Page 11

WHAT IS A PUBLIC RECORDS REQUEST?

State public records laws are predicated on a basic and fundamental tenet in our constitutional republic: open and transparent government. Although many people are familiar with the federal Freedom of Information Act (FOIA), some may be surprised to learn that each state has its own public records law that applies to state and local governments. This includes government agencies, departments, cities, towns, school districts, and other entities that engage in public business or receive taxpayer money. State public records laws are often broader than the federal FOIA.

The purpose of state public records laws is to ensure that public activities are open to public review so that, as the U.S. Supreme Court put it in the context of the FOIA, citizens in a free nation “are permitted to know what their government is up to.” Under state public records laws, transparency is the general rule and secrecy is the exception. As a result, there is typically a strong presumption in favor of disclosure. If government entities claim that some information should be withheld under public records statutes, the burden is frequently on the government to prove an exemption to disclosure. In each state, there are administrative and judicial processes allowing citizens to seek review of public records responses that do not comply with state law.

Who can make a public records request?

In short, state public records laws are strong tools available to all citizens to ensure open government. They are frequently designed to encourage disclosure, and often provide robust protections to citizens who have been denied access to public information.

The public records process begins with a public records request. This guide outlines best practices for drafting well-defined requests for public information.

How you make a request makes all the difference.

A clear public records request can often make the difference between the prompt production of responsive information or a frustrating wall of delay, fees, and denial. It is imperative that initial requests are done right. And because the initial records request serves as the basis for administrative and judicial review, building an accurate administrative record is essential if a requester later seeks to compel the production of information that has been withheld.

Questions? Goldwater can help.

If you have any questions regarding this guide or your rights to public information, please contact the Goldwater Institute to determine if the Institute can help you access information necessary to hold your government accountable. **Visit OpenMyGovernment.org for more information or contact us at info@goldwaterinstitute.org.**

HOW TO MAKE A PUBLIC RECORDS REQUEST

A public records request must include the following important information in order to be effective. We have also included a State Public Records Request Template on page 10 to help you get started.

Date

A records request should always include the date the request was submitted. This will generally serve as the “cut-off” time for the public entity to conduct a reasonable search for records. Additionally, many people will ask for records that were generated over a certain period spanning from an earlier date to the “date of this request.” By including a date on your request, you will inform the public entity, and possibly later the courts, what the end date was for your request.

Subject Line

Include in the subject line that your letter is a “public records request.” Also include a brief subject matter description of the records requested.

Addressee

Address the request to the custodian of public records. The name of this person or office can generally be found on the public entity’s website. If a specific person or department responsible for public records requests cannot be identified, address the request to the “records custodian” and send to the agency responsible for maintaining the information you are seeking.

Statutory Citation

Cite the applicable public records or freedom of information statute in the first line of the request and state that your communication is a request for public records pursuant to that law.

Information Requested

This is the most critical component of the public records request. Drafting the substance of the request will depend on several factors, including whether the existence of the records is known, as described below. General considerations apply:

- Only seek information that is allowed under the law. Each state's public records law will define public records or information, often specifically describing what is and is not a public record. Ensure that your request seeks information defined by statute as public information.
- Avoid requesting exempted information. State public records laws generally contain specific exemptions from the scope of the law. So even if information meets the statutory definition of a public record, it may still be exempted if it falls within an enumerated exemption. Common exemptions include privacy interests, commercial or trademark interests, and law enforcement or investigative interests.

Many times, exemptions are specified in the statute. Other times, courts have developed the exemptions in case law. To the extent possible, a request should avoid seeking exempted information. However, the burden is generally on the public entity to prove that an exemption applies, and many state courts narrowly construe exemptions. So if it is a close call as to whether an exemption applies or a request cannot be tailored to avoid seeking exempted information, a good practice is to seek the information and see if the public entity claims an exemption.

- Consider the scope of the request. The complexity of the request and the volume of records sought can often determine the timeframe for a public entity to fulfill a request (unless the response timeline is established by law). As a general matter, a request should be neither too broad in the sense that it seeks more information than what the requester is looking for, nor too narrow in the sense that it will not capture the information sought.
 - o If you know that a record exists, you should identify the record with enough specificity so that the records custodian can easily locate it. You should consider including information in the request that will help identify the specific record, such as dates, report names, and individual names.
 - o If you do not know whether a record exists, you should carefully consider what information is sought and draft the request accordingly. It is better to draft a request with precision rather than engage in a fishing expedition. For example, if you are seeking communications about a particular topic, the request should identify the topic (or speakers) precisely, including specific phases or names in the request, and any relevant date range.

- o Consider discussing and possibly refining the request with the records custodian, but document everything. If the records custodian is having a difficult time understanding the request or claims that a request is burdensome because it is overly broad, consider having a discussion with them to clarify and refine the request. Often, the custodian will simply want to respond to the request and close it out. And frequently, communications regarding the size and scope of the request can help you get the information you want as well as reduce unnecessary productions. If, however, you and the records custodian agree to an alteration of the request, you should always confirm in writing what the alteration is and what was agreed to with the records custodian. This way, if you later seek to compel production in court, there will be a clear administrative record.
- Most states will not require that a requester state the purpose of the request, and most of the time you should not do so. However, if it will help in clarifying the scope of the request and getting the information sought, you may voluntarily discuss the reasons for the request.
- State whether the request is seeking to inspect records or to copy them. Many states allow both the inspection of public records and requests for copies of public records. The primary considerations for whether to request inspection or copies are generally convenience and fees. Inspection of records requires a requester to go to a physical location to review responsive records, which may be inconvenient. On the other hand, if the records are voluminous or the requester does not know exactly what is sought, inspection may be a better way to obtain information. Be aware that when you seek copies of records, public entities are often authorized to charge a fee for the copies. Typically, a public entity cannot charge a fee for inspection (although they may still seek fees for searching for and identifying responsive records if authorized under the law to do so).
- State a time period for the request. If possible, provide a relevant period for the information you are seeking, particularly if the response will be voluminous and include things like “all communications.” This will generally aid in getting the specific information more quickly.

Statutory Deadline

Identify the public entity's response deadline in the request and keep track of it. Many state public records laws have specific statutory timeframes in which public entities must respond. Others have nonspecific requirements, such as "promptly." In either case, you should state the deadline in the request and follow up with the public entity in writing regarding the deadline.

Fees for Search or Copies

As a requester, you should be aware of how much public entities are authorized to charge to respond to your request, and draft the request accordingly.

States vary considerably regarding whether a public entity can charge fees for searching for or copying responsive records. Some but not all states allow fees for the time it takes to locate and respond to a records request. And many states charge fees for the cost of copying the records.

If a public entity is authorized to charge for searching and responding to a request, then the requester should tailor the request in a way that will minimize search efforts. This may include identifying specific records or starting with a more limited request and broadening the scope in subsequent requests.

Similarly, if a public entity is authorized to charge for copies of public records, a requester may wish to inspect the records in person rather than pay the fees. If you are willing to pay fees for copying records, you should state (1) the amount you are willing to pay in the request and (2) that the public entity should contact you if the cost will exceed that amount.

Costs and fees may also be waived or reduced if the request is for a noncommercial purpose or if a waiver of fees is otherwise available under the law. If the records will not be used for commercial or pecuniary purposes, the request should state that it is for a noncommercial purpose. Additionally, some states allow a requester to seek a waiver of costs and fees. For example, some statutes allow for costs and fees to be waived if the request will contribute to the public's understanding of an issue of public concern. If a waiver of costs and fees is available, identify the basis for the waiver and state why it applies to the request.

Contact Information

The requester should include contact information in the request. This will help facilitate modifications, refinements, or any questions pertaining to the request.

Submission

Requests should always be submitted in writing—mailed, emailed, or through an online submission portal if available. However submitted, you should ensure there is evidence of the submission.

It is generally a good practice to have the request in letter form so the contents are clear and the letter can be attached as an exhibit if you later need to appeal a denial or seek to compel production. If submitted by email, a good practice is to draft the request in letter form and attach a PDF of the letter to the email submission.

If a public entity requires submission via an online portal, you should seek written confirmation that the request was received. You should also consider preparing the request in letter form and attaching the letter to the online submission or separately mailing or emailing it.

Response

Once a response is received, you should carefully review it to determine what was provided, what was withheld, and the basis for any withholding.

If responsive records were provided, ensure that the production is indeed what was requested.

If documents are totally or partially withheld, you should carefully identify what was withheld and review the basis for withholding. Generally speaking, if a portion of the request is denied, the public entity should state the basis for denial, including whether the entity contends that an exemption applies. Typically, the presumption is in favor of disclosure, and if a public entity contends that an exemption applies, the burden is on the public entity to prove the exemption's application.

If you wish to challenge the public entity's response, you should review the applicable appeal process. Often, state statutes will require that a requester first appeal the denial of a records request administratively—either through the public entity that denied the request or to a third party such as the state attorney general's office. There are also typically tight deadlines involved in appealing the denial of a request. You should review the appellate processes and ensure that any appeal is made to the right body and is timely filed.

If it appears that your public records request was denied in violation of state law, please submit a case inquiry to the Goldwater Institute at <http://goldwaterinstitute.org/submit-a-case>. Please include: (1) the records request, (2) the public entity's response, and (3) any communications with the public entity.

STATE PUBLIC RECORDS TEMPLATE

DATE

Name of Public Entity

Attn. Name of Records Custodian

Mailing Address

Email Address

Subj: Public Records Request – Information Requested

Dear Records Custodian:

Pursuant to [cite public records statute], I respectfully request the following public records in your custody:

(1) Information Requested

(2)

(3)

Electronic production of records and information is preferable and acceptable.

I request your response as soon as possible. If responsive records cannot be produced within ten (10) business days [or the statutory deadline], please contact me with your progress and expected completion date.

Additionally, if some records are available prior to the production of other records, please provide on a rolling or continuing basis as the records are available.

This request is for non-commercial purposes, and copies of records will not be used for a commercial purpose.

I am willing to pay [insert amount] for copies of the public records requested. If the cost of production will exceed this amount, please contact me to receive approval for costs.

Should you have any questions regarding this request, please do not hesitate to contact me at [phone] or [e-mail].

Thank you for your prompt attention to this matter.

Sincerely,

Name

FIND MY STATE

Alabama: 12
Alaska: 13
Arizona: 14
Arkansas: 15
California: 16
Colorado: 17
Connecticut: 18
Washington D.C.: 19
Delaware: 20
Florida: 21
Georgia: 22
Hawaii: 23
Idaho: 24
Illinois: 25
Indiana: 26
Iowa: 27
Kansas: 28
Kentucky: 29
Louisiana: 30
Maine: 31
Maryland: 32
Massachusetts: 33
Michigan: 34
Minnesota: 35
Mississippi: 36
Missouri: 37

Montana: 38
Nebraska: 39
Nevada: 40
New Hampshire: 41
New Jersey: 42
New Mexico: 43
New York: 44
North Carolina: 45
North Dakota: 46
Ohio: 47
Oklahoma: 48
Oregon: 49
Pennsylvania: 50
Rhode Island: 51
South Carolina: 52
South Dakota: 53
Tennessee: 54
Texas: 55
Utah: 56
Vermont: 57
Virginia: 58
Washington: 59
West Virginia: 60
Wisconsin: 61
Wyoming: 62

Alabama

Statutory Citation

[Al. Code §36-25A-1 et seq.](#)

Definition of Public Record

The Alabama Public Records Law under Al. Code §36-25A-1 et seq. grants citizens the right to inspect and copy public writings. Pursuant to the statute, every citizen has a right to inspect and take a copy of any public writing of the state, except as otherwise expressly provided by statute.¹

Exemptions to Public Records

Banking, juvenile court, hospital and probation reports; identity of Medicaid recipients; reports of suspected disease cases; tax and financial statements.²

Who Can Make the Request?

Anyone. However, due to the language of the law not specifying where one must be a citizen from, Alabama can deny a request because they are not an Alabama citizen. This is a rare occurrence.³

Response Timeframe

No fixed timeframe

Information on Fees

The Attorney General's office in Alabama has historically stated the following opinion regarding fees; "If possible, a public agency should provide free copies of public records. However, if budgetary constraints prevent this, then a public agency may charge a nominal fee, if necessary, to cover its costs in providing copies of public records. One may inspect public records without paying a fee unless a substantial amount of an employee's time is required." In practice, this isn't always the case. Search fees can only be charged if a substantial amount of an employee's time is required in searching according to the Attorney General. Duplication fees run the following:

Criminal justice records not more than \$25 Appellate records \$5 for one to ten pages and \$0.50 per page for than ten Public safety records not more than \$15 Each individual driving record is \$5.75 All other records are up to the specific custodian to decide on an appropriate fee.⁴

Enforcement Mechanisms

Due to there being no designated records custodian in the Public Records Law of Alabama, and there being no language in the law itself outlining enforcement of the law, enforcement is spotty at best and the requester has to be his own enforcer in many ways. Part of the Alabama code on tampering with governmental records can be read to apply to the Public Records Law. A person commits the crime of tampering with governmental records if; (1) "He knowingly makes a false entry in or falsely alters any governmental record; or (2) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise substantially impairs the verity or availability of any governmental record; or (3) Knowing he lacks the authority to retain a governmental record he refuses to deliver up the record in his possession upon proper request of a person lawfully entitled to receive such record for examination or other purposes." Ala. Code § 13A-10-12(a) (1994). This is punishable with a one year jail sentence, however the Attorney General does not have power to enforce the Public Records Law himself. Any citizen or media source that wishes to self-enforce this law must do so in court by filing a civil action.⁵

Attorney Fees

None

Alaska

Statutory Citation

[A.S. §09.25.110 et seq.](#)

Definition of Public Record

Section AS 40.25.220(3) in the Alaska Public Records Act defines “public records” to mean “books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency; ‘public records’ does not include proprietary software programs.”⁶

Exemptions to Public Records

Juvenile, adoption, medical and public health; library lending; names of victims of certain types of sexual assault; and some law enforcement records.⁷

Who Can Make the Request?

Anyone

Response Timeframe

10 days.⁸

Information on Fees

Fees are allowed but are required to be kept to a minimum. “Except as otherwise provided in this section, the fee for copying public records may not exceed the standard unit cost of duplication established by the public agency.”⁹

Enforcement Mechanisms

Very little explicit enforcement, injunctive relief is permitted against anyone obstructing access to public records. A person having custody or control of a public record who denies, obstructs, or attempts to obstruct, or a person not having custody or control who aids or abets another person in denying, obstructing, or attempting to obstruct, the inspection of a public record subject to inspection under AS 40.25.110 or 40.25.120 may be enjoined by the superior court from denying, obstructing, or attempting to obstruct, the inspection of public records subject to inspection under AS 40.25.110 or 40.25.120. A person may seek injunctive relief under this section without exhausting the person’s remedies under AS 40.25.123 – 40.25.124.¹⁰

Attorney Fees

Under Alaska court rules, the winner of a legal dispute is entitled to recover a portion of its costs from the other side. There used to be provisions for public interest litigants to recover full fees if they won and not pay anything if they lost, but that was abolished in 2003.¹¹

Arizona

Statutory Citation

[A.R.S. §§ 39-101 to -161](#)

Definition of Public Record

The Arizona Public Records Law has been in existence for more than 100 years and mandates that all public records be open to inspection by any person at all times during office hours. Public records include books, papers, maps, photographs or other documentary materials. *Lake v. City of Phoenix* recently established that digital meta-data, attached to files stored in any electronic form are considered part of that document and are thus subject to open records requests.¹²

Exemptions to Public Records

The Arizona Public Records Law does have some exceptions which include: student records, research records, donor information, or if the release of a record would constitute an invasion of personal privacy and that invasion outweighs the public's right to know, or if the disclosure of a record is detrimental to the best interests of the state. Arizona law also requires individuals who are making a FOIA request for commercial purposes to state those purposes. Exempt: Adoption records; disciplinary records of some professional groups; some medical records; some corrections department records; bank records; and trade secrets.¹³

Who Can Make the Request?

Anyone

Response Timeframe

There is no specific timeframe

Information on Fees

Agencies can charge fees, except for those records being requested with the intention of being presented to the U.S. government or a division thereof in relation to a claim, insurance, or other benefits. A.R.S. § 39-121.02¹⁴

Enforcement Mechanisms

There are no administrative appeals options. However, you can take the matter to court. Those with prevailing challenges may be awarded attorney fees. – A.R.S. § 39-121.02¹⁵

Attorney Fees

You can collect attorney's fees. "The court may award attorney fees and other legal costs that are reasonably incurred in any action under this article if the person seeking public records has substantially prevailed. Nothing in this subsection shall limit the rights of any party to recover attorney fees, expenses and double damages pursuant to section 12-349." – A.R.S. § 39-121.02¹⁶

Arkansas

Statutory Citation

[Ark. Code Ann. §25-19-101 et seq.](#)

Definition of Public Record

Arkansas defines public records as “writings, recorded sounds, films, tapes, electronic or computer-based information, or data compilations in any medium required by law to be kept.”¹⁷

Exemptions to Public Records

Income tax records; medical, scholastic and adoption records; historical and archeological files; on-going law enforcement investigations; working papers, competitive advantage, and personnel records; and identities of undercover law enforcement officers.¹⁸

Who Can Make the Request?

Originally, any citizen of the state of Arkansas could request records during normal business hours with the exception of individuals on trial and convicted felons who request information concerning the Department of Corrections.¹⁹

Response Timeframe

24 hours to determine eligibility and 3 days to assemble.²⁰

Information on Fees

The public body may establish fees reasonably calculated to reimburse it for its actual cost in making reproductions of records. A public body may not charge a search or retrieval fee or otherwise seek reimbursement based on a man-hour basis as part of costs associated with making reproduction of records. §29B-1-3²¹

Enforcement Mechanisms

Falls to the Attorney General. The State Supreme Court case of Bryant v. Weiss (1998), in which the state’s top law enforcer was regarded as a citizen entitled to employ the FOIA, affirmed this opinion. Therefore, the State Attorney General may file a request that had been denied to another citizen and, if the request is once again denied, then he/she may bring civil action under the FOIA in place of the original requester.²²

Attorney Fees

You can claim attorney’s fees. A claim for reasonable attorney’s fees and litigation expenses reasonably incurred in an action against the State of Arkansas or a department, agency, or institution of the state shall be filed with the commission pursuant to 19-10-201 et seq. within sixty (60) days of the final disposition of the appeal under subsection (a) of this section.²³

California

Statutory Citation

[Gov't Code §6250-6268](#)

Definition of Public Record

Public records in the California Public Records Act are defined as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” There is a separate category of “purely personal information” that, although it may be in the custody of a government agency, does not fall under the act. Statute 6255 states a catch all exemption, “The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”²⁴

Exemptions to Public Records

Exempt: Law enforcement investigations: litigation; and proprietary business data and personal privacy.²⁵

Who Can Make the Request?

Anyone

Response Timeframe

One should allow 10 days for an agency to comply with a records request.²⁶

Information on Fees

Fees may cover “direct costs of duplication or a statutory fee if applicable”²⁷

Enforcement Mechanisms

“Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.” Cal. Gov’t Code § 6258²⁸

Attorney Fees

“The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff’s case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.” [Cal. Gov’t Code § 6259(d)]

Colorado

Statutory Citation

[C.R.S. 24-72-201 et seq.](#)

Definition of Public Record

Public records include all writings that are made, maintained, kept or held by entities that are subject to the Colorado Public (Open) Records Act for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.²⁹

Exemptions to Public Records

Exempt: At discretion of custodian: Records of investigations; test questions; details of research projects being conducted by the state; real estate appraisals; and motor vehicle license photographs. Custodian must Exempt: Medical data; personnel files; letters of reference; trade secrets; library records; addresses of public-school children; and sexual harassment complaints under investigation.³⁰

Who Can Make the Request?

Any person can request records and they are not required to state a purpose nor is the custodian of the records allowed to ask said person to provide a reason.³¹

Response Timeframe

Colorado Law stipulates a three-day deadline for a response.³²

Information on Fees

For duplication the charge is for \$0.25 per page for standard sized paper, and not exceeding actual cost for other sizes. This also goes for electronic records. They may not charge a search fee unless they have manipulated data into a form that was not already created by the agency. And even then, costs must be kept 'reasonable.'³³ In 2019, the maximum hourly fee for retrieval was increased to \$33.58.³⁴

Enforcement Mechanisms

You can appeal in the district court where the offending agency is located. There is no time limit for filing suit in Colorado.³⁵

Attorney Fees

Yes, you can win attorney's fees³⁶

Connecticut

Statutory Citation

[Connecticut Freedom of Information Act § 1-200 et seq](#)

Definition of Public Record

Public records include any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract. This data or information can be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.³⁷

Exemptions to Public Records

Exempt: Preliminary drafts or notes whose disclosure does not outweigh the public benefit of withholding them, Personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy", Records of law enforcement agencies which are still currently in pre-trial or trial phase or which would place victims or culprits in danger, Strategy or negotiation concerning pending litigation, Trade Secrets, Financial information, freely given and not required by statute, Licensing tests and statements of personal worth, Collective bargaining records and reports, Personal information including names and addresses of students enrolled in any school, Adoption records, Petitions, Records of complaints, Any information that would jeopardize security at correctional facilities, infrastructure, telecommunications or the security of any individuals, Home addresses of anyone within the Address Confidentiality Program³⁸

Who Can Make the Request?

Anyone

Response Timeframe

There are no restrictions on the use of the records and the allotted response time for Connecticut open requests is four days.³⁹

Information on Fees

State fees for copying are set at 25 cents per page, and other public agencies can charge 50 cents per page. No other fees are authorized except charges at actual cost to the agency for transcription and electronic records.⁴⁰

Enforcement Mechanisms

If you win your appeal and the FOIC has "reasonable grounds" to do so, they may impose a fine on an offending agency of not more than \$1,000. If the agency knowingly and purposefully disobeyed the law and withheld records, they may be guilty of a class A misdemeanor which carries a sentence of a year in jail and \$2,000 in fines. If an agency does not heed the judgement of the FOIC and turn over records, then it is guilty of a class B misdemeanor which has a possible sentence of six months in jail and up to \$1,000 in penalties.⁴¹ FOIA is enforced by the Freedom of Information Commission (FOIC), which consists of five members appointed by the governor with the approval of the legislature and four members appointed by other officials. See Conn. Gen. Stat. §1-205. The FOIC is charged with promptly reviewing any alleged violation of FOIA and issuing orders regarding such allegations. The commission has the power to investigate allegations, including the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and require the production of books and papers it deems relevant to the investigation. Conn. Gen. Stat. §1-205.⁴²

Attorney Fees

You can win attorney's fees

Washington D.C.

Statutory Citation

[D.C. Code §§ 2-531-540](#)

Definition of Public Record

The term “public record” includes all books, papers, maps, photographs, cards, tapes, recordings, vote data (including ballot-definition material, raw data, and ballot images), or other documentary materials, regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Public records include information stored in an electronic format.⁴³

Exemptions to Public Records

The term “public record” includes all books, papers, maps, photographs, cards, tapes, recordings, vote data (including ballot-definition material, raw data, and ballot images), or other documentary materials, regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Public records include information stored in an electronic format.

Who Can Make the Request?

Anyone

Response Timeframe

The statute requires a response in 15 working days.⁴⁴

Information on Fees

Fees may be charged; full or partial waivers are available for public-interest and media requests.⁴⁵ Search, review and copying fees cannot exceed the actual costs of searching, reviewing and/or copying records.⁴⁶

Enforcement Mechanisms

Administrative appeals must be made to the Mayor’s office under D.C. Code § 2-537(a), except that the mayor does not review appeals of denials by the D.C. attorney general or the D.C. legislative branch (the D.C. Council). The Mayor’s Office of Legal Counsel publishes D.C. FOIA appeals decisions online. The D.C. Office of Open Government will review complaints about agencies’ performance under the FOI statute. The office can issue advisory opinions but does not adjudicate specific cases. The office authority is in its establishment act D.C. Code § 2-593 and the office web page explains its role.⁴⁷

Attorney Fees

You can win attorney’s fees.

Delaware

Statutory Citation

[29 Del. C. § 10001 et seq.](#)

Definition of Public Record

Public records are defined as information of any kind, owned, made, used, retained, received, produced, composed, drafted or otherwise compiled or collected by any public body, relating in any way to public business, or in any way of public interest or in any way related to public purposes.⁴⁸

Exemptions to Public Records

Personal information on accepted students, current students, and past students, Medical records, Trade Secrets, Records of attorneys who represent the state, Reports that result in unfair competition, Appraisal information for public land purchases, Criminal files, Military confidential records, Personal information in records of employees and elected officials of public agencies, Library records, Information on the donors of charitable contributions, Corrections department information that would jeopardize security, Communications made to the government but not required by statute, Examinations, Archaeological and historical ecologically sensitive material locations and information, Marketing and advertising budgets and strategies for non-profits, Information maintained by mediators employed to solve the disputes with government agencies.⁴⁹

Who Can Make the Request?

Anyone

Response Timeframe

15 days.⁵⁰

Information on Fees

Any "reasonable expense involved in the copying of records," may be charged to a requester. In Delaware it is also up to the individual agency to write their own rules about charging for requests. If they plan to deviate from this, they must give written notice, Labor for search times may also be charged if the agency has a written policy. Notable in Delaware is the mandate that any charges be estimated in full, to allow the requester to properly be able to decide if they wish to proceed with the request.⁵¹

Enforcement Mechanisms

By petition of a citizen denied access to information, the Attorney General can determine whether a violation has occurred. 29 Del. C. § 10005(e). There is no general public records custodian. If the Attorney General or the courts decide your appeal is valid and the agency must disclose the documents they withheld, the extent of enforcement is an award for attorney fees and records cost. There is no penalty to an offending agency.⁵²

Attorney Fees

You can win attorney's fees.

Florida

Statutory Citation

[Fla. Stat. sec. 119.01 et. seq.](#)

Definition of Public Record

Public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or characteristics, or means of transmission, made or received pursuant to law to ordinance or in connection with the transaction of official business by any agency.⁵³

Exemptions to Public Records

Some exemptions that are included are federal records that the federal government has designated as non-public, personal e-mails sent from or received by city employees using a government computer, some “drafts” or “notes” are also exempt.⁵⁴

Who Can Make the Request?

According to the Florida Sunshine Law, any person in Florida can request public documents and a purpose does not have to be stated.⁵⁵

Response Timeframe

The law does not specify a specific response time.⁵⁶

Information on Fees

The standard fees for duplicates are 15 cents per one-sided page, no more than 20 cents per two-sided page, and \$1 per certified copy. The law also provides for allowable additional fees based on the need for extensive information technology support.

Enforcement Mechanisms

Though lauded as a strong public records law, Florida actually has no mechanisms by which to appeal or effectively enforce denials or failures to comply with the law. The Attorney General’s Office offers a voluntary mediation option for the resolution of disputes, as required by statute: “(2) The public records mediation program is created within the Office of the Attorney General. (3) The Office of the Attorney General shall: (a) Employ one or more mediators to mediate disputes involving access to public records. A person may not be employed by the department as a mediator unless that person is a member in good standing of The Florida Bar. (b) Recommend to the Legislature needed legislation governing access to public records. (c) Assist the Department of State in preparing training seminars regarding access to public records.” [Fla. Stat. § 16.60]⁵⁷

Attorney Fees

Yes, you can win attorney’s fees.

Georgia

Statutory Citation

[O.C.G.A. §50-18-70 et seq.](#)

Definition of Public Record

Public records are those documents generated by individuals or groups in public office in the course of public service.⁵⁸

Exemptions to Public Records

Records in the Georgia Open Records Act that are exempt are records related to the provision of staff services to individual members of the General Assembly by the Legislative and Congressional Reapportionment Office, the Senate Research Office, or the House Research Office, or GIS Data. Also, investigations; certain real estate documents; attorney-client privilege documents; and names of handgun carriers.⁵⁹

Who Can Make the Request?

Anyone

Response Timeframe

3 days.⁶⁰

Information on Fees

It is permitted under the Georgia Open Records Act that an agency can charge \$0.25 per page for copying costs, and more if specifically required by law. Search, retrieval and other administrative costs can also be charged but must be "in the most economical means available," O.C.G.A. § 50-18-71(c). However, an agency may not charge a search or retrieval fee unless it poses "an unusual administrative cost or burden." *McFrugal Rental v. Garr*, 262 Ga. 369, 418 S.E.2d 60 (1992).⁶¹

Enforcement Mechanisms

According to the act itself, "[a]ny person knowingly and willfully violating the provisions of this article by failing or refusing to provides access to records not subject to exemption from this article or by failing or refusing to provide access to such records within the time limits set forth in this article shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$100.00." O.C.G.A. § 50-18-74(a). This can be levied by the Attorney General through the complaint filing system, or through winning a civil action case which can be filed by any person or company.⁶²

Attorney Fees

Yes, the act expressly requires them in appropriate cases. "without substantial justification either in not complying with this chapter or in instituting the litigation, the court shall, unless it finds special circumstances exist, assess in favor of the complaining party reasonable attorney fees and other litigation costs reasonably incurred." O.C.G.A. § 50-18-73(b)⁶³

Hawaii

Statutory Citation

[Haw. Rev. Stat. §91-1 et seq.](#)

Definition of Public Record

Records include all materials maintained in government offices and agencies including all records whether they be written, auditory, visual, electronic, or other physical form.⁶⁴

Exemptions to Public Records

Exemptions of this act are records that constitute an invasion of privacy, records of current judicial proceeding of which the agency receiving the request is a part, and confidential government records, inchoate and draft working papers of legislative committees including budget worksheets and unfiled committee reports.⁶⁵

Who Can Make the Request?

Anyone

Response Timeframe

Up to 10 days.⁶⁶

Information on Fees

UIPA authorizes agencies to charge a reasonable cost of not less than five cents per page. \$2.50 per fifteen minutes for an agency search for the record; \$5.00 per fifteen minutes for an agency review and segregation of the record; and the actual rate that is charged to the agency by a person outside the agency for services to assist in the search. Haw. Admin. Rules § 2-71-31(a). The first \$30 of fees for search, review and segregation of a record are automatically waived.⁶⁷

Enforcement Mechanisms

The state records ombudsman or OIP have jurisdiction to investigate any agency potentially not operating within the proper confines of the UIPA.⁶⁸

Attorney Fees

Yes, you can win attorney's fees.⁶⁹

Idaho

Statutory Citation

[Idaho Code §74-101 et seq.](#)

Definition of Public Record

All records are presumed to be open records.⁷⁶

Exemptions to Public Records

Exemptions include court records that would result in the release of confidentiality, law enforcement investigations, juvenile records, voting records of the sexual offender classification board, records concerning discrimination investigations, workers compensation records, prisoner records, current and former public employees, income tax information, hospital and medical care records, Idaho Housing and Finance Association, voter registration cards, records in the address confidentiality program, trade secrets including academic research, archaeological records and endangered species locations, draft legislation records, underwriting and claims records of the Idaho petroleum clean water trust fund, or judicial authorization of abortions for minors.⁷⁷

Who Can Make the Request?

Anyone

Response Timeframe

3 days.⁷⁸

Information on Fees

An agency may charge a fee not exceeding the actual labor costs if a request is for more than 100 pages of documents, if private information must be deleted from requested records, or the locating and copying of documents takes more than two hours. Copying fees may not exceed the actual cost of that agency copying a record. A fee that is stipulated by law must be uniform to all persons can be imposed for copying electronic records on a computer disk, tapes or microfilm. Again this fee cannot exceed the direct cost of labor for the agency, or the cost of a third party to convert the record.⁷⁹

Enforcement Mechanisms

The act provides that the “sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located.” Idaho Code § 74-115(1). Thus, the act is enforced through private enforcement.⁸⁰

Attorney Fees

Yes, if the courts find that the request was handled improperly then one can win attorney’s fees.⁸¹

Illinois

Statutory Citation

[5 Illinois Compiled Statutes 140 – Freedom of Information Act](#)

Definition of Public Record

The act defines public records as all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, recorded information and all other documentary materials under the control of any public body.⁸²

Exemptions to Public Records

Exemptions are highly detailed and expansive. Some exemptions belong to broad categories laid out in the act, while others are much shorter and more specific. There are over 25 categories alone, although again some are much less wordy than others. See [5 ILCS 140/7](#).

Who Can Make the Request?

Anyone.

Response Timeframe

5 working days.⁸³

Information on Fees

Fees are a specific and detailed part of the Illinois FOIA, with some unique aspects included. Perhaps the most interesting is if an agency doesn't respond within five business days they may not charge any fee. As for more typical non-electronic records the law states that, "a public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records." 5 ILCS 140/6(b). No fees may be charged for records requests that amount to under 50 black and white pages and they only charge a copying fee of \$0.15 per page, and they may not charge for search time. Records that are in color must be charged at the actual cost of copying the records, and no more. Electronic records may only be charged for the amount of the cost of the medium that the record is copied onto. For driving records it is up to the Illinois Vehicle Code to set the fee. The Act also states that "the imposition of a fee not consistent with subsections (6)(a) and (b) constitutes a denial of access to public records for the purposes of judicial review." 5 ILCS 140/6(d).⁸⁴

Enforcement Mechanisms

The Public Access Counselor is in charge of enforcement of the Illinois FOIA. The Counselor reviews each rejection by a public body to a requester and determines if the exemption was used properly. However, this may not in itself be enough to trigger actual penalties against an agency. However, if in a court proceeding an agency has been found guilty of willfully and purposefully failing to comply with the act, a penalty of between \$2,500 and \$5,000 can be leveraged by the court. This is among the harshest FOIA penalties in the nation.⁸⁵

Attorney Fees

Yes, if in a court of law an agency is found to have in bad faith denied a request, a requester can win back reasonable attorney's fees.⁸⁶

Indiana

Statutory Citation

[I.C. §§5-14-3-1 et seq.](#)

Definition of Public Record

Public records are defined as essentially any information created, maintained or filed by government agencies.⁸⁷

Exemptions to Public Records

Exemptions include trade secrets, confidential information received upon request, academic research, licensing information, medical records, anything declared exempt by the Supreme Court, autopsy photos or videos, social security numbers, law enforcement investigations, attorney information, personal files of employees, names of charitable donors, security measures for telecommunications, schools, and general infrastructure, correctional officer information, complaint information within law enforcement agencies, contact information for utility employees, or labor negotiations.⁸⁸

Who Can Make the Request?

Anyone

Response Timeframe

7 days to acknowledge, 24 hours to respond.⁸⁹

Information on Fees

No fees are authorized to be charged in Indiana except a “reasonable” fee is authorized “for permitting a governmental agency to inspect public records by means of an electronic device.” Ind. Code § 5-14-3-8(i). This may not exceed the direct cost of supplying the record in electronic form.⁹⁰

Enforcement Mechanisms

One can file a lawsuit in district court to compel an agency to disclose wrongfully withheld documents, however the Public Access Counselor does not have authority to compel an agency or penalize an agency. Indiana has harsh penalties for those in agencies that disclose confidential documents through FOIA, including being charged with a Class A misdemeanor. This is not the case when the Public Access Counselor has issued an opinion that the information deemed classified be released to the public.⁹¹

Attorney Fees

If the plaintiff first sought and received an opinion from the Public Access Counselor than attorney’s fees can be awarded, provided they prevail in court. Fees are awarded from the date of the Public Access Counselor’s opinion until the date when the court determines the prevailing party in the suit.⁹²

Iowa

Statutory Citation

[Iowa Code §22.1 et seq.](#)

Definition of Public Record

The Iowa Open Records Law is a series of laws designed to guarantee that the public has access to public records of government bodies at all levels. The law includes all records of government agencies except where the documents have been deemed confidential.⁷⁰

Exemptions to Public Records

Personal information on accepted students, current students, and past students, Medical records, Trade Secrets, Records of attorneys who represent the state, Reports that result in unfair competition, Appraisal information for public land purchases Criminal files, Military confidential records, Personal information in records of employees and elected officials of public agencies, Library records, Information on the donors of charitable contributions, Corrections department information that would jeopardize security, Communications made to the government but not required by statute, Examinations, Archaeological and historical ecologically sensitive material locations and information, Marketing and advertising budgets and strategies for non-profits, Information maintained by mediators employed to solve the disputes with government agencies.⁷¹

Who Can Make the Request?

Anyone

Response Timeframe

10–20 days.⁷²

Information on Fees

Fee practices in Iowa tend to be vague. Reproduction fees must be charged at a “reasonable” amount, and each agency is in charge with coming up with its own procedures. Furthermore, search fees do not exist in Iowa, instead using supervisory fees, again at reasonable cost.⁷³

Enforcement Mechanisms

Language making denying or refusing a request knowingly a misdemeanor was repealed in 2011. Currently if an agency or other custodian of records is found by judicial review to be guilty of improperly denying a request they can expect to be forced to release the denied documents, and can expect a fine of not more than \$500 and not less than \$100. If they knowingly denied the request improperly then a maximum fine of \$2,500 or a minimum of \$1,000 can be levied. Furthermore, the agency or custodian found to be guilty must also pay the plaintiff’s attorney fees. If an agency employee is found to have violated the chapter previously, then an order for removal of office or post will be given. The laws are enforced through the courts as well as the Iowa Public Information Board.⁷⁴

Attorney Fees

Yes, if one is able to prevail in court then attorney’s fees can be rewarded.⁷⁵

Kansas

Statutory Citation

[KSA 45-215 et. seq.](#)

Definition of Public Record

The act defines public records as any records that are created or kept in public agencies and that pertain to the workings of the government.⁹³

Exemptions to Public Records

Personnel information of public employees, Medical treatment records, Records protected by attorney-client privilege, Records closed by rules of evidence, Notes and preliminary drafts, Criminal investigation records, Records the disclosure of which is restricted or prohibited by a Tribal State Gaming Compact, Records specifically exempt from disclosure under the Kansas expanded lottery act (KELA) and the Kansas parimutuel racing act, Other types of records generally not related to racing and gaming, which can be found in K.S.A. 45-221, KRGC is only required to provide public records that already exist. There is no requirement for any agency to create a record upon request.

Who Can Make the Request?

Anyone

Response Timeframe

3 days.⁹⁴

Information on Fees

Agencies are allowed to charge for the actual cost of their employees searching and copying records and time spent on the request. Electronic records may only be charged for any computer services necessary to fulfill the request and for staff time. Agencies may charge advanced payment in Kansas.⁹⁵

Enforcement Mechanisms

The KORA can be enforced by the Attorney General, a county/district attorney, or by private citizens. Any person, the Attorney General, or a County/District attorney, may file a KORA law suit in district court. If an agency is found guilty by a court of knowingly violating KORA then they can be fined up to \$500 and attorney fees will be awarded to the prevailing party.⁹⁶

Attorney Fees

Yes, if you are able to prevail in your appeal then attorney fees can be awarded.⁹⁷

Kentucky

Statutory Citation

[Kentucky Revised Statute Chapter 61.870 et seq.](#)

Definition of Public Record

A public record is defined as including, "all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency."⁹⁸

Exemptions to Public Records

There are 42 exemptions. See [KY Rev Stat § 61.878 \(2021\)](#) for the complete list.

Who Can Make the Request?

Anyone.

Response Timeframe

3 Days.⁹⁹

Information on Fees

An agency cannot charge for searching, only for copying for noncommercial requests. For noncommercial, agencies can charge at actual cost for their time copying records. Commercial requests can have both search and copying charged for and this can be done at "reasonable" charge. The case *Friend v. Rees*, 696 S.W.2d 325 (Ky. Ct. App., 1985) found that 10 cents was a reasonable fee.¹⁰⁰

Enforcement Mechanisms

There are no penalties for a noncompliant agency, although if the requester wins in court attorneys fees can be covered and at the discretion of the court they may be awarded \$25 per day the agency was in violation of the act.¹⁰¹

Attorney Fees

Yes, if you prevail in your case.¹⁰²

Louisiana

Statutory Citation

[La.R.S. 44:1 etseq.](#)

Definition of Public Record

Section LA 44.01.2(a) defines public records as, “All books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memorandum, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of this state, are “public records”, except as otherwise provided in this Chapter or the Constitution of Louisiana.”¹⁰³

Exemptions to Public Records

Exempt: Pending criminal litigation; juvenile status offenders; sexual offense victims; security procedures; trade secrets; and some public employee information.¹⁰⁴

Who Can Make the Request?

Anyone.

Response Timeframe

3 Days.¹⁰⁵

Information on Fees

The agency may only charge fees for situations in which the requester asks to inspect records outside of regular business hours. They may charge “reasonable” fees for duplication.¹⁰⁶

Enforcement Mechanisms

You can take the agency to court. “A. Any person who has been denied the right to inspect, copy, reproduce, or obtain a copy or reproduction of a record under the provisions of this Chapter, either by a determination of the custodian or by the passage of five days, exclusive of Saturdays, Sundays, and legal public holidays, from the date of his in-person, written, or electronic request without receiving a determination in writing by the custodian or an estimate of the time reasonably necessary for collection, segregation, redaction, examination, or review of a records request, may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney fees, costs and damages as provided for by this Section, in the district court for the parish in which the office of the custodian is located.” Louisiana Revised Statutes §44.35¹⁰⁷

Attorney Fees

Yes, you can win attorney’s fees.

Maine

Statutory Citation

[M.R.S.A. Title 1, Chapter 13.](#)

Definition of Public Record

The act defines public records as, “any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and 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.”¹⁰⁸

Exemptions to Public Records

Exempt in records: Certain law enforcement investigation documents; records of legislature; and university administrative committees.¹⁰⁹

Who Can Make the Request?

Anyone

Response Timeframe

Rejections must occur within 5 days.¹¹⁰

Information on Fees

Fees may cover copies and search time at a rate no greater than \$15 an hour.¹¹¹

Enforcement Mechanisms

One may file an appeal in court. “Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408-A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to the Superior Court within the State for the county where the person resides or the agency has its principal office. The agency or official shall file a statement of position explaining the basis for denial within 14 calendar days of service of the appeal. If a court, after a review, with taking of testimony and other evidence as determined necessary, determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.” Maine Revised Statutes, Title 1, Chapter 13, Subchapter 1 § 409¹¹²

Attorney Fees

Yes. “In an appeal under subsection 1 or 2, the court may award reasonable attorney’s fees and litigation expenses to the substantially prevailing plaintiff who appealed the refusal under subsection 1 or the illegal action under subsection 2 if the court determines that the refusal or illegal action was committed in bad faith. Attorney’s fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.” Maine Revised Statutes, Title 1, Chapter 13, Subchapter 1 § 409(4)¹¹³

Maryland

Statutory Citation

[Md. Ann. Code art. GP, § 4-101 \(2014\)](#)

Definition of Public Record

Public records are defined by the Code of Maryland as documents in any form, made or received by a public body which pertain to government business.¹¹⁴

Exemptions to Public Records

Exempt: Information that invades individual privacy; trade secrets; public policy development memos; and investigative materials.¹¹⁵

Who Can Make the Request?

Anyone

Response Timeframe

30 days.¹¹⁶

Information on Fees

An official custodian is permitted to charge an applicant a reasonable fee to search for, prepare and reproduce a public record in a customized format. § 4-206(b)(1)(i). For records produced in standard format, an official custodian may charge a reasonable fee for the actual costs of the search, preparation, and production. § 4-206(b)(1)(ii). An official custodian may not, however, charge a fee for the first two hours spent searching for a public record and preparing it for inspection. § 4-206(c). A reproduction fee may not be set by the custodian if the fee is provided for by another law. § 4-206(d)(1). The custodian may charge for the cost of providing facilities for reproduction if the custodian does not have such facilities. § 4-206(d)(2).¹¹⁷

Enforcement Mechanisms

Section 4-362(a) authorizes any person or governmental unit that has been denied inspection of a public record to file a complaint in the circuit court for the county where the complainant resides or has a principal place of business, or where the public record is located. The circuit court may enjoin the State, a political subdivision, or a unit, an official, or an employee of the State or a political subdivision from withholding the public record or a copy, printout or photograph of the record; order the production of the withheld record or copy, printout or photograph, and award actual damages including attorneys' fees to the complainant if the Court finds that the complainant substantially prevailed in the suit seeking enforcement of the Act. § 4-362(c), (f); but see *ACLU v. Leopold*, 223 Md. App. 97, 123 (2015) ("actual damages" under the statute does not include emotional damages).¹¹⁸

Attorney Fees

Yes, in addition to "statutory damages" of up to \$1,000 for the whole case.¹¹⁹

Massachusetts

Statutory Citation

[G. L. c. 4, § 7\(26\)](#)

Definition of Public Record

Public records are defined as all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency.¹²⁰

Exemptions to Public Records

Exempt: Information that would invade individual privacy; trade secrets; public policy development memos; and investigative materials. The Office of the Governor is also exempt.¹²¹

Who Can Make the Request?

Anyone.

Response Timeframe

10 days.¹²²

Information on Fees

A common tactic among agencies that can't reject a request outright is to claim that processing the request would generate thousands of dollars in fees, in effect holding the documents "hostage." Most commonly, you see this with emails, with agencies arguing that they needed to print them out and hand-redact them to ensure the integrity of the document. While these can be appealed with some success, it does help to keep requests as narrow as possible. Agencies may not charge for the first four (4) hours of employee time spent in responding to a records request; for municipalities, it is the first two (2) hours. After this the agency and municipality may charge a maximum rate of \$25 per hour. Municipalities, but not agencies, may exceed this rate if the request is for a commercial purpose or the requested fee reflects the actual cost to comply. If a records officer fails to respond within 10 business days, no fee may be charged.¹²³

Enforcement Mechanisms

The Supervisor of Public Records is the primary enforcer of the public records law within the state. Appeals should be sent to his office. From there, the SPR can order the custodian to comply; further refusal to do so may result in referral to the Attorney General or the appropriate district attorney, although this is rare.¹²⁴

Attorney Fees

The Superior Court may award attorney fees, except under four specific circumstances: (i) the supervisor of public records finds the agency or municipality did not violate the law. (ii) the agency or municipality based their denial on a published decision of the appellate court or attorney general. (iii) the request was intended to harass or intimidate. (iv) the request was not in the public interest or was made for a commercial purpose unrelated to disseminating information to the public.¹²⁵

Michigan

Statutory Citation

[Mich. Comp. Laws Ann. §15.231 et seq.](#)

Definition of Public Record

Records are defined as a writing which encompasses handwriting, typing, printing, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, or other means of recording or retaining meaningful content prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created.¹²⁶

Exemptions to Public Records

Exempt: Information deemed private; trade secrets; advisory communications with government agencies; attorney-client communications; medical counseling and psychological facts or appraisals; records of campaign committees; and some law enforcement records.¹²⁷

Who Can Make the Request?

Anyone other than incarcerated felons.¹²⁸

Response Timeframe

5 days.¹²⁹

Information on Fees

A fee will be charged for a public record search, copying for inspection or for providing a copy of a public record. Fees are limited to actual mailing costs and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and deletion and separation of exempt from nonexempt information as provided for in the FOIA. This time and work will be charged at the hourly rate, including benefits, of the lowest paid University employee capable of performing the task necessary to comply with the request under the FOIA.¹³⁰

Enforcement Mechanisms

Litigation is the only resource for rejected requests.¹³¹

Attorney Fees

Yes, provided you win your appeal in court.¹³²

Minnesota

Statutory Citation

[Minn. Statutes 13.01 et seq.](#)

Definition of Public Record

Public records are defined as all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.¹³³

Exemptions to Public Records

Exempt: Juvenile court records; and some personnel information.¹³⁴

Who Can Make the Request?

Anyone.

Response Timeframe

No timeframe is specified.¹³⁵

Information on Fees

The MGDPA is unclear on many of the facets of FOIA fees. In person inspection carries no charge, and government records that are electronic can be charged for the time spent searching for and duplicating the records electronically, but may not charge for redaction or legal review. Agencies in Minnesota have begun charging for search time and labor costs on lengthy requests and this practice has been held up on appeal. Paying for FOIA has been a growing issue for records requesters in Minnesota, and looks to be getting worse not better.¹³⁶

Enforcement Mechanisms

\$300 fine can be levied by a court ordering an agency to grant access. It may also be classified as a misdemeanor depending if it was a willful violation or not. If it is filed as a misdemeanor the offending FOIA officer could be suspended without pay, or lose their job.¹³⁷

Attorney Fees

Yes, you can win attorney's fees.

Mississippi

Statutory Citation

[Miss. Code Ann. 25-61-1 et seq.](#)

Definition of Public Record

Records are defined as “all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.”¹³⁸

Exemptions to Public Records

Exempt: Personnel matters; employment applications; individual tax records; academic examination questions; appraisal information concerning the sale or purchase of property for public purposes; and attorney work product concerning litigation.¹³⁹

Who Can Make the Request?

Anyone.

Response Timeframe

The Mississippi Public Records Act states that, if not decided upon by the individual department, departments have one working day to respond to PRA requests. However, departments may establish their own time limits of up to fourteen working days.¹⁴⁰

Information on Fees

Fees must be “reasonably calculated to reimburse [the public body] for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing.” § 25-61-7(1). An agency may not charge more than “actual cost,” *Roberts v. Miss. Republican Party State Executive Comm.*, 465 So. 2d 1050, 1054 (Miss. 1985). This was held to apply even when a city conducted expensive aerial photography and mapping of local areas. See *Att’y Gen. Oct. 5, 1994 to Gex*. There is no statutory authority for chancery clerks to charge a flat monthly fee to abstractors for use of their office fax machine to transmit records to members of the public. *Att’y Gen. No. 2002-344, Sept. 13, 2002 to Crook*. Where the statute authorizes a court clerk to charge a fee, the fee does not count against the cap on the clerk’s compensation. *Att’y Gen. No. 96-003, Feb. 7, 1996 to Carpenter*.¹⁴¹

Enforcement Mechanisms

The act may be enforced either through the Mississippi Ethics Commission or through a lawsuit filed in chancery court. In court, suit must be filed in the chancery court of the county in which the public body sits. § 25-61-13(1). Proceedings take precedence over all other matters on the court docket. § 25-61-13(3).¹⁴²

Attorney Fees

Yes, you can win attorney’s fees.¹⁴³

Missouri

Statutory Citation

[Mo. Code §610.023 et seq.](#)

Definition of Public Record

Records are defined by Missouri law as “any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body.”¹⁴⁴

Exemptions to Public Records

Personnel records, social security information, proprietary information in science or technology, personal financial information, law enforcement techniques and active cases, many kinds of medical records, scholastic information and sealed bids.¹⁴⁵

Who Can Make the Request?

Anyone

Response Timeframe

3 days.¹⁴⁶

Information on Fees

Searches must be conducted in the most efficient way possible but searches can be charged for at actual cost of labor. Copying is charged for at actual cost of labor and the cost of the paper or electronic means used in duplication. Copy fees should not exceed 10 cents per page.¹⁴⁷

Enforcement Mechanisms

Any aggrieved person, any Missouri taxpayer or citizen, the Attorney General or prosecuting attorney may seek judicial enforcement of the Sunshine Law. Mo.Rev. Stat. § 610.027.1. The Attorney General takes a role in enforcing the Sunshine Law, including issuing opinions regarding the scope of the Law.¹⁴⁸ The Attorney General is authorized to sue to enforce the Sunshine Law (Mo.Rev.Stat. § 610.027.1), but the office rarely initiates litigation, although it may file a brief as amicus curiae.¹⁴⁹

Attorney Fees

Yes, if you win your appeal in court.¹⁵⁰

Montana

Statutory Citation

[Montana Code 2-6-101 et seq.](#)

Definition of Public Record

The original definition of records includes all writings of government bodies including electronic mail. However, it has been expanded to include all items in “electronic format or other non-print media, including but not limited to videotapes, photographs, microfilm, film, or computer disk.”¹⁵¹

Exemptions to Public Records

Exempt: Records may be closed if the right to individual privacy clearly exceeds the public’s right to know. However, the Montana Supreme Court has upheld challenges to statutes or executive branch decisions that closed records, ruling that the constitutional public right to know outweighed the individual privacy interest.¹⁵²

Who Can Make the Request?

The Montana Public Records Act states that citizens are entitled to public records in the state, however, the Montana Constitution states that no person may be denied such records. The Constitution trumps statute, so anyone may request public documents in Montana.¹⁵³

Response Timeframe

No time limits are specified.¹⁵⁴

Information on Fees

An executive order by the Office of the Governor in 1996 made 10 cents a page the statewide copying charge. The first half hour of search time is free, after that there is an \$8.50 an hour charge.¹⁵⁵

Enforcement Mechanisms

There are no penalties for agencies in violation of the Montana FOIA.¹⁵⁶ There is no specific provision for enforcement under the act, and most provisions are enforced through citizen-initiated lawsuits.¹⁵⁷

Attorney Fees

Yes, you can win them.¹⁵⁸

Nebraska

Statutory Citation

[Nebraska Statutes §84-712.01 et seq.](#)

Definition of Public Record

Public records include all documents, no matter the form, belonging to any government agency.¹⁵⁹

Exemptions to Public Records

Exempt: Personal information on student and personnel records; medical records; trade secrets; academic and scientific research; attorney work product; law enforcement or investigative records; some archeological records; and real estate appraisals.¹⁶⁰

Who Can Make the Request?

Anyone.

Response Timeframe

4 days.¹⁶¹

Information on Fees

Individuals that wish to inspect and make copies on their own equipment may do so at no additional cost. Agencies can charge fees, but they must not exceed the actual costs to provide the record. The agency shall not charge for the first four hours of staff time; after that time, a special service fee may be charged, but it may not include the cost of an attorney to review the materials. NRS 84-712.03(c)¹⁶²

Enforcement Mechanisms

Though there are no provisions for an administrative appeal option, an informal appeal to the head of the agency may prove effective. The law provides for judicial relief by filing a writ of mandamus in the district court. One may also petition the Attorney General. NRS 84-712.03¹⁶³

Attorney Fees

The court may award a prevailing complainant reasonable attorney's fee.¹⁶⁴

Nevada

Statutory Citation

[N.R.S. 239 et seq.](#)

Definition of Public Record

Public records includes all books and records of all government entities.¹⁶⁵

Exemptions to Public Records

There are over 300 exemptions. See N.R.S. 239.0105, N.R.S. 239.013, and N.R.S. 239.014.

Who Can Make the Request?

Anyone

Response Timeframe

5 days.¹⁶⁶

Information on Fees

Agencies can charge fees, but they must not exceed the actual costs to provide the record, and they can't charge more than 50 cents per page. NRS 239.052¹⁶⁷

Enforcement Mechanisms

There are no administrative appeals options. However, you can take the matter to the district court in the county in which the request was filed. In court, if the request prevails, he or she is entitled to attorney's fees. NRS 239.011¹⁶⁸

Attorney Fees

Yes, you can win attorney's fees.

New Hampshire

Statutory Citation

[R.S.A. Ch. 91-A](#)

Definition of Public Record

Public records are any information created, accepted, or obtained by, or on behalf of, any public body.¹⁶⁹

Exemptions to Public Records

Exempt in records: Investigative files; parole and pardon board records; student records; and certain commercial/financial information.¹⁷⁰

Who Can Make the Request?

The New Hampshire Right to Know Law indicates that all “citizens” have a right to access New Hampshire’s records. However, the law does not specify whether it is citizens of New Hampshire or the United States.¹⁷¹

Response Timeframe

5 days.¹⁷²

Information on Fees

Only reproduction costs can be charged.¹⁷³

Enforcement Mechanisms

Through the Attorney General “any person aggrieved by a violation of this chapter may petition the superior court for injunctive relief.”¹⁷⁴

Attorney Fees

Yes, you can win attorney’s fees.

New Jersey

Statutory Citation

[New Jersey S.A. 47:1A-13 \(Open Public Records Act – OPRA\)](#)

Definition of Public Record

Public records includes any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file.¹⁷⁵

Exemptions to Public Records

Any documents prepared by or for a member of the State Legislature, and the Office of the Governor in certain cases where they deem the information requested to be confidential.¹⁷⁶

Who Can Make the Request?

Anyone but convicted criminals seeking information on victims may request public documents from the state.¹⁷⁷

Response Timeframe

7 days.¹⁷⁸

Information on Fees

Electronic copies should be provided without a fee, however a fee can be charged for the transmission medium the electronic copy is sent by (CDs, DVDs, etc.). For paper copies: * first page to tenth page, \$0.75 per page; * eleventh page to twentieth page, \$0.50 per page; * all pages over twenty, \$0.25 per page.¹⁷⁹

Enforcement Mechanisms

A person who is denied access to a government record, at the option of the requester, may institute a proceeding to challenge the custodian's decision by filing an action in Superior Court or file a complaint with the Government Records Council established pursuant to OPRA. (See N.J.S.A. 47:1A-6)¹⁸⁰

Attorney Fees

Yes, you can win attorney's fees.

New Mexico

Statutory Citation

[NMSA \(1978\) 14-2 et seq.](#)

Definition of Public Record

The New Mexico Statute 14-2-6 states that records include “all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained.”¹⁸¹

Exemptions to Public Records

Exempt: Physical or mental examinations and medical treatment; letters of reference concerning employment, licensing or permits; matters of opinion in personnel files or students’ cumulative files; law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged; identity of applicant or nominee for president of institution of learning but names of at least five finalists must be released at least 21 days before selection is made.¹⁸²

Who Can Make the Request?

Anyone.

Response Timeframe

3 days.¹⁸³

Information on Fees

The AG has stated that fees must be kept to actual cost of copying. Search fees are not permitted in New Mexico.¹⁸⁴

Enforcement Mechanisms

The Attorney General or District Attorney in the jurisdiction has authority to enforce the Inspection of Public Records Act. NMSA 1978 § 14-2-12(A)(1) (1993). Any person whose request has been denied may enforce the Act. § 14-2-12(A)(2) (1993). A previously unnamed principal may enforce Inspection of Public Records Act, either directly in its own name or through its agent.¹⁸⁵

Attorney Fees

Yes, you can win attorney’s fees.¹⁸⁶

New York

Statutory Citation

[N.Y. Pub. Off. Law Ch. 47 Art. 6 § 84](#)

Definition of Public Record

A record is defined as any information kept, held, filed, produced, or reproduced by, with or for an agency or the state legislature, in any physical form whatsoever. Documents are still covered by the act if a promise of confidentiality has been given, if they are in temporary possession of someone else, or if they originated outside the government but have come into possession of the government.¹⁸⁷

Exemptions to Public Records

Exempt: Disclosures resulting in unwarranted invasion of privacy or business/competition enterprises; names of sex crime victims; and some law enforcement records and inter/intra-agency materials.¹⁸⁸

Who Can Make the Request?

Anyone.

Response Timeframe

5 days.¹⁸⁹

Information on Fees

Fees may cover search time after the first two hours and copying costs as appropriate.¹⁹⁰

Enforcement Mechanisms

One may appeal or sue. "4. (a) Except as provided in subdivision five of this section, any person denied access to a record may within thirty days appeal in writing such denial to the head, chief executive or governing body of the entity, or the person therefor designated by such head, chief executive, or governing body, who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought. " N.Y. Pub. Off. Law Ch. 47 Art. 6 § 87(c).¹⁹¹ If a FOIL request is denied by an agency, and an administrative appeal to the agency results in upholding the denial, the requester has the option of commencing legal action (known as an Article 78 proceeding) against the agency in which a New York State Supreme Court judge will decide the merits of the disclosure issue under FOIL. Many such legal cases are brought by news organizations as surrogates for the public.¹⁹²

Attorney Fees

Yes, you can win attorney's fees.¹⁹³

North Carolina

Statutory Citation

[G.S. §132-1](#)

Definition of Public Record

Records include all documents, no matter the physical form, “made or received pursuant to law or ordinance in connection with the transaction of public business by any agency.”¹⁹⁴

Exemptions to Public Records

Exempt: Confidential legal communications; criminal investigations; and intelligence information.¹⁹⁵

Who Can Make the Request?

Anyone

Response Timeframe

There is no time limit. Section § 132-6 of the North Carolina Public Records Law states that a custodian of public records shall make them available “at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law.”¹⁹⁶

Information on Fees

Agencies are only allowed to charge copying fees, unless an “extensive amount of labor” is involved. The State Chief Information Office can mediate fees.¹⁹⁷

Enforcement Mechanisms

Enforcement through Civil Court.¹⁹⁸

Attorney Fees

Yes, you can win attorney’s fees.

North Dakota

Statutory Citation

[NDCC 44-04-18 et seq](#)

Definition of Public Record

North Dakota law defines records as, “recorded information of any kind, regardless of the physical form or characteristic by which the information is stored, recorded, or reproduced, which is in the possession or custody of a public entity or its agent and which has been received or prepared for use in connection with public business or contains information relating to public business.”¹⁹⁹

Exemptions to Public Records

Exempt: Juvenile records; trade secrets; public employee medical and assistance records; workers compensation; unemployment; tax information; law enforcement investigation records; and most Department of Human Services records.²⁰⁰

Who Can Make the Request?

Anyone

Response Timeframe

No timeframe is specified.²⁰¹

Information on Fees

A public entity can charge for providing records, and may require payment of any estimated charges before fulfilling an open record request.²⁰²

Enforcement Mechanisms

Any interested person may request an attorney general’s opinion to review a written denial of a request for records. N.D.C.C. § 44-04-21.1(1). If the attorney general issues a written opinion concluding that a violation has occurred, the public entity has seven days after the opinion is issued, regardless of whether a civil action is filed, to disclose the record. N.D.C.C. § 44-04-21.1(2). If the public entity fails to disclose the record within the seven-day period and the person requesting the opinion prevails in a civil action brought under N.D.C.C. § 44-04-21.2, the requestor must be awarded costs, disbursements, and reasonable attorney’s fees in the action and on appeal.²⁰³

Attorney Fees

You can win attorney’s fees along with damages.²⁰⁴

Ohio

Statutory Citation

[Ohio Rev. Code sec. 149.43 et seq.](#)

Definition of Public Record

Records include all records kept by any public office as well as records of both non-profit and for-profit private schools.²⁰⁵

Exemptions to Public Records

Exempt: Personal bank records; medical records; adoption records; probation and parole records; and certain law enforcement investigative records.²⁰⁶

Who Can Make the Request?

Anyone.

Response Timeframe

Timeframe not specified.²⁰⁷

Information on Fees

In general, fees of the actual cost of materials, but not labor, may be charged. The Department of Motor Vehicles may charge additional fees for data requested for marketing or other commercial purposes.²⁰⁸

Enforcement Mechanisms

Enforcement is primarily through lawsuits, and a request does not need to be rejected before a requester may sue. Courts may award attorneys fees in many cases, and must if the agency simply ignored the request or misses a promised response date. In addition, a court may award a \$100 per business day in punitive fees.²⁰⁹

Attorney Fees

Although it is not guaranteed, you can still win your attorney fees provided you win your appeal in court.²¹⁰

Oklahoma

Statutory Citation

[Title 51 Oklahoma Statutes § 24A.1 et seq.](#)

Definition of Public Record

Section 24A.2 defines records as “all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property.” This specifically includes all records of the transfer of public funds.²¹¹

Exemptions to Public Records

Exempt: If protected by state evidentiary privilege; real estate appraisals; personnel records; registration files of sex offenders; public officials’ personnel notes; business-related bids; computer programs; medical market research; and certain educational records including student records.²¹²

Who Can Make the Request?

Anyone.

Response Timeframe

Timeframe not specified.²¹³

Information on Fees

Request fees are generally limited to the direct cost of materials required in fulfilling the request and not to exceed 25 cents per page for 8 1/2 by 14 inches or less. However, requests deemed purely commercial (which does not include media requesters) or which would be unduly burdensome may recover fees for search time.²¹⁴

Enforcement Mechanisms

There is no formal appeal process, so litigation is the primary enforcement mechanism. Officials found guilty of violating the act may be fined up to \$500.²¹⁵

Attorney Fees

Yes, you can win attorney’s fees.²¹⁶

Oregon

Statutory Citation

[O.R.S. 192.410 et seq.](#)

Definition of Public Record

The ORS 192.410(4)(a) says that a public record includes any writing that contains information that relates to the conduct of the public's business, is prepared, owned, used or maintained by a public body regardless of physical form or characteristics. If a record (a) does not relate to the conduct of the public's business and (b) is contained on a privately owned computer", then it is not a public record as defined in the law.²¹⁷

Exemptions to Public Records

Exempt: Records less than 75 years old containing information on the health care treatment of a living individual; impending litigation; trade secrets; criminal investigation materials; testing materials; real estate appraisals; personnel disciplinary action; and computer programs.²¹⁸

Who Can Make the Request?

Anyone

Response Timeframe

Timeframe not specified.

Information on Fees

Fees must be kept to the actual costs of searching for and copying records. If the fee will exceed \$25 the agency must first give you an estimate and ask if you want to proceed.²¹⁹

Enforcement Mechanisms

The Attorney General's role in enforcing the Public Records Law varies depending upon the circumstance. A person challenging the denial of a records request to a state agency (but not an elected official) can seek review from the Attorney General. ORS 192.411(1) (formerly ORS 192.450). If the Attorney General determines that the requested records should not be disclosed and the requestor seeks judicial review of that determination, the Attorney General will serve as counsel for the state agency. ORS 192.411(3).²²⁰ The 2017 Legislature created the office of the Public Records Advocate. ORS 192.461-192.475. The Public Records Advocate's role is to "provide facilitated dispute resolution services" when requested by either a requestor of public records held by a state agency or by the state agency itself. ORS 192.464.²²¹

Attorney Fees

Reasonable attorney's fees can be won if the requestor wins the case. Even if the victory is only in part, attorney's fees can still be awarded at the discretion of the court. If an agency fails to comply with an Attorney General order to release documents within seven days, attorney's fees will also be awarded even before any litigation in court.²²²

Pennsylvania

Statutory Citation

[65 Pennsylvania Statute § 67.101 et seq. \(Right-to-Know Law\)](#)

Definition of Public Record

The Pennsylvania Right to Know Law defines records as, “information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency.”²²³

Exemptions to Public Records

Personnel records are exempted, including public employees’ private information, and donor information. Trade secrets, work files of public servants and professors of higher learning, records that would compromise the security of a computer network, records that could damage law enforcement’s efforts to protect national security and the public, and records that would result in loss of funding for the agency or state are all considered exempt.²²⁴

Who Can Make the Request?

Any United States citizen.²²⁵

Response Timeframe

5 days.²²⁶

Information on Fees

Fees in Pennsylvania are fairly limited. Agencies can charge for actual cost of duplicating records, but may not charge for review of documents or searching for them. The only other fee allowed to be charged is if the agency incurs a cost in processing the request, i.e. if they have to put it on a CD or if they have to do an extensive server search which involves outside professionals.²²⁷

Enforcement Mechanisms

The Office of Open Records can issue advisory opinions for court cases involving public records. For “bad faith” offenses a court can issue a civil penalty of a fine of \$1,500. If an agency does not comply with a court order and turn over records they are subject to a fine of \$500 per day that the records have not been turned over.²²⁸

Attorney Fees

Yes, you can win attorney’s fees.²²⁹

Rhode Island

Statutory Citation

[R.I. Gen. Laws §§38-2-1](#)

Definition of Public Record

Public records are all documents, no matter their physical form that are “made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”²³⁰

Exemptions to Public Records

Privacy concerns, the protection of law enforcement techniques and investigations, trade secrets, preliminary work product or negotiation records, personal financial records, and school test results are all covered. One of the more unique exemptions is that all communications between elected officials in Rhode Island and their constituents are exempt from disclosure.²³¹

Who Can Make the Request?

Anyone

Response Timeframe

Rhode Island law allows 10 days for a public body to deny a request. If the agency does not respond within 10 days, it is deemed a denial.²³²

Information on Fees

The language in the law states that “cost per copied page of written documents provided to the public shall not exceed fifteen cents (\$.15) per page for documents copyable on common business or legal size paper. A public body may not charge more than the reasonable actual cost for providing electronic records,” R.I. Gen. Laws § 38-2-4(a). Costs for search time is limited to \$15.00 an hour. Agencies are required to give the requester an estimate of costs, and upon request itemized breakdowns of where costs are being incurred.²³³

Enforcement Mechanisms

The Act is enforced by the Attorney General or by a private party through an action for injunctive or declaratory relief in the superior court of the county where the record is maintained. R.I. Gen. Laws § 38-2-8²³⁴

Attorney Fees

Yes, provided you win your case.²³⁵

South Carolina

Statutory Citation

[S.C. Code Ann. §30-4-10 to 30-4-55](#)

Definition of Public Record

South Carolina's definition of records includes all records, no matter their physical characteristics, that were "prepared, owned, used, in the possession of, or retained by a public body."²³⁶

Exemptions to Public Records

Exempt: Pending investigation documents; confidential attorney communications; identification of informants; certain bank and business transactions; and income tax returns.²³⁷

Who Can Make the Request?

Anyone

Response Timeframe

15 days²³⁸

Information on Fees

Agencies can charge fees, but they must not exceed the actual costs to provide the record.²³⁹

Enforcement Mechanisms

There are no administrative appeals options. However, you can take the matter court. Those with prevailing challenges may be awarded attorney fees. In addition, willful violators are subject to escalating fines and potential jail time as a result of its misdemeanor status. However, there is no historical precedent for this, and to date there have only been not guilty verdicts rendered for those who claimed they had no knowledge of how they were breaking the law.²⁴⁰

Attorney Fees

Yes, you can win attorney's fees.²⁴¹

South Dakota

Statutory Citation

[SDCL Chapter 1-27](#)

Definition of Public Record

Public records are defined as all records kept by public bodies in South Dakota, no matter the physical form. The state also offers OpenSD, a search-able website with many public documents available.²⁴²

Exemptions to Public Records

Exempt: Savings and loan association reports; school records; juvenile court records; adoption records; hospital licensing and inspection information; and medical research information.²⁴³

Who Can Make the Request?

Anyone.

Response Timeframe

Timeframe not specified.²⁴⁴

Information on Fees

The state's fee provision states that fees must be kept to actual cost for mailing, transmittal, or reproduction. Fees can be incurred after one hour of employee labor time.²⁴⁵

Enforcement Mechanisms

The civil options are a lawsuit or administrative hearing with appeal to circuit court. SDCL §1-27-38.²⁴⁶ Although the open records statutes do not provide any specific criminal sanctions, the criminal code, itself, makes it a felony to destroy, conceal, remove or impair the availability of any public record. SDCL §22-1-24. Therefore, it is logical to conclude that the local states attorneys would/should enforce the act. However, there are no recorded cases of prosecutions for open records violations.²⁴⁷

Attorney Fees

It is possible, but the RCFP guide to South Dakota public records states that they are unlikely to be granted.²⁴⁸

Tennessee

Statutory Citation

[Tenn. CodeAnn. 10-7-503 et seq.](#)

Definition of Public Record

Records are defined as any documents, no matter the physical form which are “made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.”²⁴⁹

Exemptions to Public Records

Exempt: Medical records of patients in state institutions; some investigative records; public school student records; and some economic development issues, such as land acquisition.²⁵⁰

Who Can Make the Request?

Any citizen of Tennessee.²⁵¹

Response Timeframe

7 days.²⁵²

Information on Fees

.15 cents per page for each standard 8 ½ x11 or 8 ½ x14 black and white copy. .50 cents per page for each 8 ½ x11 or 8 ½ x14 color copy. The first hour of labor is free, but the records custodian is permitted to charge the hourly wage of the employee(s) reasonably necessary to produce the requested records.²⁵³

Enforcement Mechanisms

Individual citizens. For sanctions, The Act allows for the recovery of court costs and attorney’s fees, but only if the refusal to disclose was willful. T.C.A. § 10-7-505(g).²⁵⁴

Attorney Fees

The court has the discretion to award attorney’s fees if, “the court finds that a governmental entity, or agent thereof, refusing to disclose a record knew that such record was public and willfully refused to disclose it.” T.C.A. § 10-7-505(g) (1999).²⁵⁵

Texas

Statutory Citation

[Texas Government Code 552 \(Public Information Act\)](#)

Definition of Public Record

The law covers nearly all documents that are in the possession of government agencies in the state that are covered by the law. Section 552.002 says that information is public if it “is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by a governmental body or for a governmental body, and the governmental body owns the information or has a right of access to it.²⁵⁶

Exemptions to Public Records

Closed: Attorney consultations; real estate transactions; hearings of the ethics commission; personnel and individual student matters; and emergency medical service quality reviews, etc.²⁵⁷

Who Can Make the Request?

Anyone

Response Timeframe

10 days.²⁵⁸

Information on Fees

Fees may cover copies. They may include labor, but such inclusion requires description.²⁵⁹

Enforcement Mechanisms

You can sue. “(a) A requestor or the attorney general may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body refuses to request an attorney general’s decision as provided by Subchapter G or refuses to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure under Subchapter C.” Texas Government Code, Title 5, Subtitle A, Chapter 552, Subchapter A § 552.321²⁶⁰

Attorney Fees

Yes, you can win attorney’s fees.²⁶¹

Utah

Statutory Citation

[Utah code Title 63G Chapter 2](#)

Definition of Public Record

Documents created by public bodies in Utah are open for inspection to any member of the public.²⁶²

Exemptions to Public Records

Documents that are considered exempt from open records laws include private information about individuals and government employees (pursuant to 63G-2-302 and 63G-2-303), health records of individuals (pursuant to 63G-2-304), and records that are protected because if released they may result in security problems (pursuant to 63G-2-106) or financial speculation, unfair competition and financial instability (pursuant to 63G-2-305).²⁶³

Who Can Make the Request?

Anyone.

Response Timeframe

10 days.²⁶⁴

Information on Fees

Utah public records law reserves the state the right to charge “a reasonable fee to cover the governmental entity’s actual cost of providing a record.” (63G-2-203) GRAMA does not explicitly state what one can expect for costs in monetary value, but does mention hourly fees and a list of what tasks that must be completed by government workers to fulfill the records request the requester will be paying for. These can include “the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person’s request,” or “the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request.” (63G-2-203)²⁶⁵

Enforcement Mechanisms

While the State Records Ombudsman of Utah is in theory supposed to levy enforcement of GRAMA on agencies who fail to comply with the law, in practice this is one of the areas Utah needs the most work on. There is no independent investigative mechanism. When in 2015 the Utah Chapter of the League of Women Voters conducted interviews on the application of GRAMA, they could not find a single case of an offending agency being fined for their violation, even though the permission for fines to be levied is expressly worded in the language of GRAMA.²⁶⁶

Attorney Fees

No. Under current Utah law, one does not automatically win attorney’s fees in the case that the challenge is won. However, the judge may award them if they want.²⁶⁷

Vermont

Statutory Citation

[Vermont Statute Title 1, Chapter 5.315](#)

Definition of Public Record

Public records includes all documents, no matter the physical form that are “produced or acquired in the course of public agency business.”²⁶⁸

Exemptions to Public Records

Exempt: Twenty exemptions including: Personnel files; criminal investigation records; tax documents; and location of historical/archaeological sites.²⁶⁹

Who Can Make the Request?

Anyone.

Response Timeframe

Records denials must be issued within 2 days of receiving the records request.²⁷⁰

Information on Fees

In 1996 an amendment to the law granted agencies the right to charge for public records requests. Fees must be kept to actual cost for both copying and searching, and search time costs only kick in after 30 minutes of search time.²⁷¹

Enforcement Mechanisms

There is very little enforcement of the public records law in Vermont. In the words of the Reporter’s Committee for Freedom of the Press, “the State appears to rely on the press and private citizens for enforcement of the Public Records Act under 1 V.S.A. § 319(a). To date, there have been no enforcement actions brought by the Vermont Attorney General’s Office.” The only provision for penalties to public records offices or agencies in general who violate the law is that they may be held in contempt and be subject to discipline. There are no specifics as to what this means in terms of what exact discipline they may experience.²⁷²

Attorney Fees

Yes. However, you must be able to show that without litigation the records would likely not have been disclosed, and that there was public benefit in the release of the documents.²⁷³

Virginia

Statutory Citation

[Virginia Freedom of Information Act: §§ 2.2-3700 – 2.2-3714](#)

Definition of Public Record

Public records includes all documents, no matter their physical form, that are “prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.”²⁷⁴

Exemptions to Public Records

Exempt in records: Some criminal investigations; some police reports; tax returns; medical records; personnel matters; real estate; attorney client privilege exemptions; and working papers.²⁷⁵

Who Can Make the Request?

Any citizen of Virginia may request public records, however Virginia does limit the right of incarcerated felons to request any records whatsoever.²⁷⁶

Response Timeframe

5 business days.²⁷⁷

Information on Fees

An agency may charge reasonable fees not to exceed the actual cost of access, search, and duplication.²⁷⁸

Enforcement Mechanisms

You can sue. “A. Any person, including the attorney for the Commonwealth acting in his official or individual capacity, denied the rights and privileges conferred by this chapter may proceed to enforce such rights and privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause.” Code of Virginia, Title 2.2. Administration of Government, Chapter 37 – Virginia Freedom of Information Act, §2.2-3713²⁷⁹

Attorney Fees

Yes, you can win them.²⁸⁰

Washington

Statutory Citation

[Chapter 42.56 RCW](#)

Definition of Public Record

Washington law defines records as “any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” A recent Supreme Court ruling has said that accident reports are also public records.²⁸¹

Exemptions to Public Records

There are 46 exemptions. Most exemptions are versions of what can be found in many other state FOIA laws. These cover subjects such as the discovery exemption, law enforcement investigatory documents are exempt, as are deliberative process records.²⁸²

Who Can Make the Request?

Anyone

Response Timeframe

5 days.²⁸³

Information on Fees

Search fees may not be charged, and the standard rate for photocopies are fifteen cents per page.²⁸⁴

Enforcement Mechanisms

The Public Records Act is generally enforced through private litigation. Any person who has been refused to allow inspection or copying of public records may demand judicial review through a civil lawsuit. RCW 42.56.550. Likewise, any person who believes that an agency has not provided a reasonable estimate of time that the agency requires to respond to a public records request may seek judicial review.²⁸⁵

Attorney Fees

Yes, you can win them.

West Virginia

Statutory Citation

[W.Va. Code §29B-1-1 et seq.](#)

Definition of Public Record

West Virginia law defines records as “any writing containing information relating to the conduct of the public’s business, prepared, owned and retained by a public body”.²⁸⁶

Exemptions to Public Records

Exempt: Trade secrets; information violating personal privacy; some exam data; some archaeological sites; and law enforcement records for internal use.²⁸⁷

Who Can Make the Request?

Anyone

Response Timeframe

5 days.²⁸⁸

Information on Fees

The public body may establish fees reasonably calculated to reimburse it for its actual cost in making reproductions of records. A public body may not charge a search or retrieval fee or otherwise seek reimbursement based on a man-hour basis as part of costs associated with making reproduction of records. §29B-1-3.²⁸⁹

Enforcement Mechanisms

The Supervisor of Public Records is the primary enforcer of the public records law within the state. Appeals should be sent to his office. From there, the SPR can order the custodian to comply; further refusal to do so may result in referral to the Attorney General or the appropriate district attorney.²⁹⁰

Attorney Fees

Yes, you can win them.²⁹¹

Wisconsin

Statutory Citation

[Wisconsin Statute 19.21 et seq.](#)

Definition of Public Record

Wisconsin defines record as any document, regardless of physical form, that “has been created or is being kept by” an agency.²⁹²

Exemptions to Public Records

The eight general exemptions deal with law enforcement records closed by federal law, identities of law enforcement informants, trade secrets as defined by the Uniform Trade Secrets Act, financially identifying information, and identity of applicants for government positions who request confidentiality, although this is waived if they become one of the final candidates. More on Wisconsin exemptions can be found in the resource section.²⁹³

Who Can Make the Request?

In general, “any requester has a right to inspect any record.” (Wis. Stat. 19.35(1)(a)). However, people who are incarcerated and people who have been involuntarily committed to a mental institution are restricted in their rights of access to public documents.²⁹⁴

Response Timeframe

Timeframe not specified.²⁹⁵

Information on Fees

The language in the law mandates fees be kept to “actual, necessary and direct costs of reproduction.” Wis. Stat. § 19.35(3)(a); Osborn, 2002 WI 83 ¶46, 254 Wis. 2d at 303-04, 647 N.W.2d at 176. This includes cases where contractors are brought in to do the work by the requested agency. On August 8, 2018, the Wisconsin Attorney General issued an advisory, in which it reiterated “An authority may not charge for the time it takes to redact records, and an authority may not make a profit on its response to a public records request.” It also noted that, though municipalities are free to set their own copy charges, there is an expectation that these will only cover the necessary costs, highlighting that their own copies costs amounted to \$0.0135 for a black-and-white copy (including paper) and \$0.0632 for a color copy.²⁹⁶

Enforcement Mechanisms

If a records custodian “arbitrarily or capriciously” denies or delays a request, or charges exorbitant and unnecessary fees, a court may fine them up to \$1,000.²⁹⁷

Attorney Fees

Yes, you can win them.²⁹⁸

Wyoming

Statutory Citation

[Wyo. Stat. § 16-4-201 et seq.](#)

Definition of Public Record

The definition of records includes all documents, no matter their physical form, that have been created or received by government agencies in the course of public business.²⁹⁹

Exemptions to Public Records

Exempt: Some law enforcement investigation records; testing materials; details of state institutions' research projects; labor negotiations; school board and university student disciplinary records; and medical records of publicly funded hospitals.³⁰⁰

Who Can Make the Request?

Anyone

Response Timeframe

Timeframe not specified.³⁰¹

Information on Fees

Fees charged for inspection of records are different depending on whether the records are in printed or electronic form. A custodian may not charge for inspection of a printed record, but may charge for the reasonable search and retrieval fees for inspection of an electronic record. The Supreme Court has not ruled on what may constitute the reasonable cost of search and retrieval of electronic records. Reasonable fees may also be charged for the copies. Wyo. Stat. § 16-4-204(b). The official custodian may charge a reasonable fee for the services rendered by him or his deputy in supervising the copying, printing or photographing when such copying, printing or photographing is performed by the requester. Fee schedules must be established by rule, regulation, ordinance or law.³⁰²

Enforcement Mechanisms

The District Court where the records are found. A person denied access may seek a written explanation setting forth the reasons and legal authority for the denial. The requester then may petition the district court for a order requiring the custodian to show cause why the records should not be released. W.S. §16-4-203(f).³⁰³

Attorney Fees

Yes, provided you win your appeal in court.³⁰⁴

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