

Public Records Guidelines

Frequently Asked Questions

What is the difference between the federal Freedom of Information Act and the Massachusetts Public Records Law?

The federal Freedom of Information Act is a statute that applies to federal records. The Massachusetts Public Records Law applies to records created by or in the custody of a state or local agency, board or other government entity.

Who can help me with questions regarding the Public Records Law?

The Division of Public Records (Division) has always provided an “attorney of the day” to assist any person seeking information regarding the Public Records Law.

The hours of operation for the Division are Monday-Friday, with the exception of holidays, from 8:45 a.m. to 5:00 p.m. The telephone number for the Division is (617) 727-2832, and the email address is pre@sec.state.ma.us.

What is a “public record”

Every record that is made or received by a government entity or employee is presumed to be a public record unless a specific statutory exemption permits or requires it to be withheld in whole or in part.

Specific statutory exemptions have been created by the legislature. There are non-statutory exemptions as well called common law exemptions. Non-statutory exemptions include the common law attorney client privilege and the work product privilege. These exemptions permit the agency or municipality to withhold a record from the public. A records access officer (RAO) must prove with specificity why it should be allowed to withhold any public record.

How do I find the records I seek?

A person seeking access to government records must obtain them from the government office that created or received the records.

What is a Records Access Officer?

A Records Access Officer (RAO) is the person responsible for responding to requests for public records. Information on how to contact an RAO is usually available on the website for the applicable municipal or state entity holding the records sought by requesters.

How do I obtain copies of public records?

To obtain a copy of a record, you must make a request to the RAO for the municipal or state agency that you believe has records you are seeking.

What do I do if my request is denied?

An RAO must respond to your request as determined by the Public Records Law. If the RAO fails to respond or denies a request, a requester may appeal the matter to the Supervisor within ninety days.

Under the Public Records Regulations, all appeals to the Supervisor must include a copy of the original request, any response by the RAO and a statement indicating the reason for the appeal. The requester must also provide a copy of the appeal petition to the RAO.

What are the requirements for an RAO response to a public records request?

An RAO's response must be in writing, and must provide the name of the RAO. The response must include a good faith estimate of any cost of providing the record.

The response must also include a specific exemption to the Public Records Law to justify the denial of access to any record, and an explanation of how that exemption applies to the records. Any denial must include instructions on how to appeal to the Supervisor of Records.

Must my request be in writing, and do I need to use a specific form?

A written request is not required but is strongly recommended. An oral request made in person is permitted. An RAO is not permitted to require a written request, but may write an oral request on its own form to assist in prompt response.

To appeal an RAO response to the Supervisor, however, a request must be in writing.

May I appeal a failure to answer a question?

The Public Records Law only applies to records. An RAO is not required by the Public Records Law to answer questions or create a record in response to a request; however, an RAO must provide any records that exist that respond to a question.

What is the cost for copies of public records; what about electronic records?

Absent a specifically identified statute or regulation, an RAO may charge no more than \$0.05 per page for single and double-sided ***Is an RAO required to provide a fee estimate?***

The Public Records Regulations require that an RAO provide a detailed, written, good faith estimate for the cost of complying with a public record request.

The fee estimate must contain a statement advising the requester that the actual cost of producing the record might vary once the agency or municipality begins preparing the record. An agency or municipality is permitted to require payment of the estimated fee before commencing work. black and white paper copies or computer printouts.

May the RAO charge a fee for search and segregation of records?

An RAO may charge and recover a fee for the time spent searching, redacting, photocopying and refiling a record. Municipalities with a population of 20,000 and under are permitted to charge for the first two hours of time spent searching for, compiling, segregating, redacting and reproducing a requested record.

The hourly rate may not be greater than the prorated hourly wage of the lowest paid employee who is capable of performing the task. Generally, an RAO is not permitted to charge an hourly rate in excess of \$25.00 per hour to search for records. Municipal RAOs may petition the Supervisor for permission to charge a fee in excess of \$25.00. The fee estimate must provide the hourly rate and the number of hours required for each portion of the task.

How should an RAO respond to an unclear request?

RAOs must help the requester to determine the precise record or records responsive to a request; however, a requester must provide a reasonable description of the requested records. If a request is unclear the RAO is expected to seek clarification from the requester.

Galvin, William Francis. " A Guide to the Massachusetts Public Records Law." *Http://www.sec.state.ma.us/pre/prepdf/guide.pdf*. Secretary of the Commonwealth Division of Public Records , Jan. 2017. Web.

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