


STATE OF VERMONT
Agency of Human Services (AHS)

Public Records Request	REVISION HISTORY: New	Chapter/Number 6.01
	EFFECTIVE DATE	Attachments/Related Documents: Sample Invoice
Authorizing Signature:  Robert D. Hofmann, Secretary, Agency of Human Services		Date Signed: <u>2/3/09</u>

PURPOSE/POLICY STATEMENT:

To ensure that all departments, offices, and divisions of AHS are consistent, timely and responsive in addressing public records requests. AHS staff will respond to public records requests and otherwise comply with the requirements of the State's public records law as promptly as possible.

BACKGROUND and REFERENCES:

As a part of state government, any document produced or acquired, including handwritten notes, phone messages, draft documents, and/or e-mail sent or received in the course of agency business is a public record and may be subject to public disclosure. Vermont's Access to Public Records laws appear at 1 V.S.A. § 315 and following. These laws outline the statutory requirements, exemptions, and processes involved in responding to a public record request.

In keeping with Vermont's statutes regarding the public's right to see public records in an open and timely manner, the following policy is not intended to restrict or delay AHS staff from responding quickly to a straightforward or simple request for material that is public information. Such a request would include, for example, a published or legislative report, information about program requirements, an application form, minutes of public meetings as provided for by law, and other similar material. Staff should promptly direct the requester to the online address of the request information or forward published documents as requested. Staff should not delay a response when the requested material is readily and legally available.

DEFINITIONS:

§ 317. Definitions; public agency; public records and documents

(b) As used in this subchapter, "public record" or "public document" means all papers, documents, machine readable materials, or any other written or recorded matters, regardless of their physical form or characteristics, that are produced or acquired in the course of agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying. (Effective July 1, 2007.)

SCOPE:

This document applies to all Agency departments, divisions and offices hereafter referred to jointly as "department".

GUIDELINES:

1. The commissioner or director will be responsible for ensuring that each department has a designated point person(s) for public records requests.
2. *Requests are time-sensitive.* By law, the records custodian must produce the requested materials promptly, either by sending the requested materials by electronic or U.S. mail and/or by making the materials available for inspection. If a records custodian considers a record exempt from inspection because a statutory exemption applies, such a certification or response must be sent to the requesting party by mail or electronically within 2 business days. If more time is needed to respond to the request, the custodian must send a letter or email explaining, if appropriate, that unusual circumstances exist, e.g., there is a need to search for and collect the records from various locations; there is a need to search for, collect, and examine a large quantity of documents; or there is a need to consult with another agency or with the attorney general's office. By law, *any extension based on unusual circumstances cannot exceed 10 working days from the date of receipt of the request.*
3. All staff that may be involved in the topic matter will need to conduct a search for documents responsive to the request within the 2-day timeframe. It is always preferable to respond as soon as possible to meet the two-day deadline. If a 10-day extension is required, your department or legal counsel should prepare a letter for signature by the records custodian indicating why an extension is needed. This letter should be sent out promptly.
4. Depending on the content of the documents requested, it may be necessary to remove or redact the confidential or exempted information from the requested documents. *Do not send out, or provide for inspection, any document until the legal counsel or a designated supervisor approves the release of the document.*
5. Do not judge the merits of a request or the motivation of the requesting party. *Do not ignore a request.*
6. Similarly, do not judge the merits of a responsive document. If a document is responsive to the request and it is not exempt in whole or in part from production, it must be provided. This applies even though the document may not appear to contain any useful information. That determination is to be made by the requesting party, not by AHS staff.

WHAT TO DO IF YOU GET A REQUEST

1. Anyone receiving a request for public records should immediately send it via fax or email to your department's designated public records coordinator.
 - If you are one of multiple recipients of public record request, do not assume that another of the recipients will handle the request. Send it to the designated public records coordinator to ensure it receives a coordinated and timely response.
 - Record requests can take nearly any form and include a verbal or email request. The request may contain such text such as "*pursuant to the public records act*" or "*pursuant to the freedom of information act (FOIA)*". If you are unsure if you have received a request for records, consult with your legal counsel immediately.
2. If the request concerns documents produced or acquired by multiple departments or divisions of the Agency (Human Resources, Fiscal, IT, etc.), notify the AHS Central Office supervisor for that content area.
3. If the request requires a more expansive search beyond your own files, (or those of a small group of staff), an email requesting a more extensive department or office-wide search should be sent by the records custodian to a designated public records coordinator or to the department's IT staff for assistance.

4. Throughout the public records request process, please keep track of the time you spend responding to the request.
 - Time spent associated with the copying or production of the documents may be reimbursable (less the first 30 minutes).
5. If the request involves extensive staff time or copying, your legal counsel will need to be consulted before activity begins to clarify what time and materials need to be kept track of, in order to determine final costs.
 - In some situations the requestor may indicate what amount they are able or willing to pay. If the fee is likely to exceed this amount, staff will need to consult a supervisor to determine if the materials will be provided with no further charge or if the fee amount warrants contact with the individual to determine if they are aware and able to pay more or if they wish to narrow their original request.
 - If the request is expansive and the requestor has set no limits, staff should provide a courtesy call or send a letter or email to alert the requestor to the expected fee and determine if the requestor wants to continue or narrow their request.
6. Once the documents are collected and screened, one of two letters must go out. When the requesting party has sought copies of documents, a transmittal letter must be sent along with the requested documents and an invoice. When the request is for inspection of documents, a letter must be sent to schedule the inspection. The letters should be signed by the records custodian or by a designated public records coordinator. The signature on the letter will depend on the topic and expansiveness of the request. For example, a department or unit-wide request may be signed by a commissioner or division director.

PROVIDING DOCUMENTS & CHARGES

A requesting party may ask to inspect documents or may ask for copies.

- a. If copies are requested, the person making the copies will need to keep track of the number of double and single-sided copies. Pursuant to the Secretary of State's Official Fee Schedule for Copying Public Records, the State is authorized to charge \$.05 for single sided copies and \$.09 for double-sided copies. **The AHS will not charge for copying or time under \$5.00. Fees vary under the Fee Schedule depending on the staff level of the person involved in the public records retrieval and review process. Track the amount of time spent, the name of the person involved in the request, and the staff level or type of job of all persons who have responded to the records request.**
- b. If inspection of documents is requested, the records custodian should arrange a mutually convenient time during customary business hours for the inspection. If the requesting party then requests copies of documents, charges may be imposed.
- c. If the party reviewing the documents asks for copies after inspecting the documents, follow the same process as above. Copies may be provided at that time or should be produced within 5 working days.
- d. Departments are free to request payment prior to delivery. This may be particularly appropriate when a party has failed to make payments in the past.

TRACKING AND RECORDING REQUESTS

All required information regarding public records requests must be logged on the online tracking system. Go to <http://foia.vermont.gov> to log this information. Both Attorney and Program staff time spent collecting, reviewing or responding to a public request should be included in the online tracking system.

This system requires that common department names are used. Entries must use the common departmental abbreviations listed below:

- DAIL – Department of Disabilities, Aging and Independent Living
- DOC – Department of Corrections
- DCF/OCS – Department for Children and Families, Office of Child Support
- DCF/FSD - Department for Children and Families, Family Services
- DCF/ESD - Department for Children and Families, Economic Services
- DCF/CDD - Department for Children and Families, Child Development Division
- DMH - Vermont Department of Mental Health
- VDH – Vermont Department of Health
- VDH/CPH - Vermont Department of Health, Division of Community Public Health
- VDH/ADAP - Vermont Department of Health, Division of Alcohol and Drug Programs
- AHS – Secretary or Central Office
- AHS/FS – AHS, Field Services Division
- OVHA – Office of Vermont Health Access

COMPLIANCE

It is the responsibility of the individual departments to ensure dissemination and review of this policy to all employees within their organizations and other associates as appropriate.

ENFORCEMENT

The Office of the Secretary may initiate reviews, assessments or other means to ensure that this policy is being followed.

Copied for: _____

This is an invoice for retrieving and copying the records you requested.

The State of Vermont charges: \$0.05 per single sided page,
\$0.09 per double sided page.
\$1.00 per color copy

For staff time involved in physically duplicating a record, \$.33 per minute after the first 30 minutes.

For senior staff time involved in retrieving the records, \$.57 per minute.

For staff time involved in retrieving the records, \$.45 per minute.

The record you requested consists of:

- 91 single pages : \$4.55
- 2 double sided pages : \$.18
- 1 color copy : \$1.00
- 20 minutes of staff time retrieving records : \$9.00
- 60 minutes of senior staff time retrieving records : \$34.20
- 35 minutes of staff time copying records (subtract 30 minutes per statute) : \$1.65

Total due: \$50.58

Please send payment to the attention of _____ For check payments please make the check out to _____ (i.e., the check be directed to the business office for your department)

OR

This fee is waived because (you have indicated that you seek these records in your capacity as a legislator, etc.....) (Please confer with your legal division or counsel regarding who is exempt from paying.)

Thank-you.

Cc: Business office (It is important to alert the business office to the existence of the invoice so that when payment arrives it will be processed appropriately.)