

A PREFACE TO THE PUBLIC INFORMATION HANDBOOK

The Act. The Texas Public Information Act (the “Public Information Act” or the “Act”) gives the public the right to request access to government information. Below is a description of the basic procedures, rights and responsibilities under the Act.

Making a Request. The Act is triggered when a person submits a written request to a governmental body. The request must ask for records or information already in existence. The Act does not require a governmental body to create new information, to do legal research, or to answer questions. In preparing a request, a person may want to ask the governmental body what information is available.

Charges to the Requestor. A person may ask to view the information, get copies of the information, or both. If a request is for copies of information, the governmental body may charge for the copies. If a request is only for an opportunity to inspect information, then usually the governmental body may not impose a charge on the requestor. However, under certain limited circumstances a governmental body may impose a charge for access to information. All charges imposed by a governmental body for copies or for access to information must comply with the rules prescribed by the Office of the Attorney General (“OAG”), unless another statute authorizes a governmental body to set its own charges.

Exceptions to the Act. Although the Act makes most government information available to the public, some exceptions exist. If an exception might apply and the governmental body wishes to withhold the information, the governmental body generally must, within ten business days of receiving the open records request, refer the matter to the OAG for a ruling on whether an exception applies. If the OAG rules that an exception applies, the governmental body will not release the information. If a governmental body improperly fails to release information, the Act authorizes the requestor or the OAG to file a civil lawsuit to compel the governmental body to release the information.

Questions or Complaints. To reach the OAG’s Open Government Hotline, call toll-free (877) 673-6839 (877-OPEN TEX). Hotline staff can answer questions about the proper procedures for using and complying with the Act and can assist both governmental bodies and people requesting information from a governmental body. Hotline staff also review written complaints about alleged violations of the Act. If a complaint relates to charges, contact the OAG’s Cost Hotline toll-free at (888) 672-6787 (888-ORCOSTS) or forward a written complaint. Certain violations of the Act may involve possible criminal penalties. Those violations must be reported to the appropriate county attorney or criminal district attorney.

Federal Agencies. The Act does not apply to the federal government or to any of its departments or agencies. If you are seeking information from the federal government, the appropriate law is the federal Freedom of Information Act (“FOIA”). FOIA’s rules and procedures are different from those of the Public Information Act.

Rights of Requestors

All people who request public information have the right to:

- Receive treatment equal to all other requestors
- Receive a statement of estimated charges in advance
- Choose whether to inspect the requested information, receive a copy of the information, or both
- Be notified when the governmental body asks the OAG for a ruling on whether the information may or must be withheld
- Be copied on the governmental body's written comments to the OAG stating the reason why the stated exceptions apply
- Lodge a complaint with the OAG regarding any improper charges for responding to a public information request
- Lodge a complaint with the OAG or the county attorney or criminal district attorney, as appropriate, regarding any alleged violation of the Act

Responsibilities of Requestors

All people who request public information have the responsibility to:

- Submit a written request according to a governmental body's reasonable procedures
- Include enough description and detail of the requested information so the governmental body can accurately identify and locate the requested items
- Cooperate with the governmental body's reasonable requests to clarify the type or amount of information requested
- Respond promptly in writing to all written communications from the governmental body (including any written estimate of charges)
- Make a timely payment for all valid charges
- Keep all appointments for inspection of records or for pick-up of copies

Rights of Governmental Bodies

All governmental bodies responding to information requests have the right to:

- Establish reasonable procedures for inspecting or copying information
- Request and receive clarification of vague or overly broad requests
- Request an OAG ruling regarding whether any information may or must be withheld
- Receive timely payment for all copy charges or other charges
- Obtain payment of overdue balances exceeding \$100 or obtain a security deposit before processing additional requests from the same requestor
- Request a bond, prepayment or deposit if estimated costs exceed \$100 (or, if the governmental body has fewer than 16 employees, \$50)

Responsibilities of Governmental Bodies

All governmental bodies responding to information requests have the responsibility to:

- Treat all requestors equally
- Complete open records training as required by law
- Be informed of open records laws and educate employees on the requirements of those laws
- Inform the requestor of cost estimates and any changes in the estimates
- Confirm the requestor agrees to pay the costs before incurring the costs
- Provide requested information promptly
- Inform the requestor if the information will not be provided within ten business days and give an estimated date on which it will be provided
- Cooperate with the requestor to schedule reasonable times for inspecting or copying information
- Follow attorney general rules on charges; do not overcharge on any items; do not bill for items that must be provided without charge
- Inform third parties if their proprietary information is being requested from the governmental body
- Inform the requestor when the OAG has been asked to rule on whether information may or must be withheld
- Copy the requestor on written comments submitted to the OAG stating the reasons why the stated exceptions apply
- Comply with any OAG ruling on whether an exception applies or file suit against the OAG within 30 days
- Respond in writing to all written communications from the OAG regarding complaints about violations of the Act

This *Handbook* is available on the OAG's website at www.texasattorneygeneral.gov/open-government/office-attorney-general-and-public-information-act. The website also provides access to the following:

- Attorney General Opinions dating from 1939 through the present;
- all formal Open Records Decisions (ORDs); and
- most informal Open Records letter rulings (ORLs) issued since January 1989.

Additional tools found on the site include the *Open Meetings Handbook*, the text of the Public Information and Open Meetings Acts, and other valuable publications and resources for governmental bodies and citizens.

The following is a list of telephone numbers that may be helpful to those needing answers to open government questions.

Open Government Hotline <i>for questions regarding the Act and the Texas Open Meetings Act</i>	TOLL-FREE or	(877) OPEN TEX (512) 478-6736
Cost Hotline <i>for questions regarding charges under the Act</i>	TOLL-FREE or	(888) ORCOSTS (512) 475-2497
Freedom of Information Foundation <i>for questions regarding FOIA</i>		(800) 580-6651
State Library and Archives Commission Records Management Assistance <i>for records retention questions</i>		(512) 463-7610
U.S. Department of Education Family Policy Compliance Office <i>for questions regarding FERPA and education records</i>		(800) 872-5327
U.S. Department of Health and Human Services Office for Civil Rights <i>for questions regarding the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and protected health information</i>		(800) 368-1019