

## **GUIDELINES FOR RESPONDING TO REQUESTS FOR PUBLIC RECORDS**

### **I. Definition of "Public Record"**

#### **A. Public record includes:**

1. All documents, letters, maps, books, tapes, photos, computer based or generated information, or similar material prepared and maintained or received in the course of the operation of a public office or agency.
2. Items received or maintained by a private person or entity on behalf of a public office or agency.
3. Records received or maintained by a private person, firm, corporation, or other private entity in the performance of a service or function for or on behalf of a public office or agency to the same extent that such records would be subject to disclosure if received or maintained by such public office or agency.

#### **B. Public record does not include:**

1. Records which by order of a Georgia court or by law are prohibited or specifically exempted from being open to public inspection.
2. Preparation of reports, summaries, or compilations not in existence at the time of the request. If a document does not currently exist one should not be created.
3. Records pertaining to the subject of an administrative procedure without the prior approval of the presiding administrative law judge.

### **II. Inspection of Public Records**

#### **A. Requests for inspection of public records**

1. Public records shall be open for inspection and copying within three business days from the date the request is received.
2. Whenever possible requests made under the Open Records Act should be obtained in writing from the requestor.
3. Records maintained by computer shall be made available by electronic means, including Internet access, upon request and where practicable and subject to reasonable security restrictions. No new fees other than those directly attributable to providing access shall be assessed where records are made available by electronic means.

## **B. Responding to requests for inspection**

1. **Time Limits** - The person making the request must be informed that the records will be made available for inspection and copying no later than the third business day after the request has been received.
2. **Exceptions to time limits:**
  - a. If records exist that are responsive to the request but are not available within three business days of the receipt of the request, a written description of such records, together with a timetable for their inspection and copying shall be provided within 3 business days.
  - b. If records exist that are responsive to the request but are prohibited or exempted from public inspection, the custodian of records must specify in writing, within 3 business days from receipt of the request, the specific legal authority exempting the records from disclosure. The designation of an exemption may only be amended or supplemented one time and within certain time restrictions.

## **C. Charges for copying public records**

1. The agency should use the most economical means available for copying public records.
2. The agency should notify the requesting party of the estimated charges prior to fulfilling the request.
3. A public agency may assess a copying charge for public records of up to 25 cents per page.
4. A reasonable charge may be collected for search and retrieval and other direct administrative costs for complying with the request. The hourly charge must not exceed the salary of the lowest paid full-time employee who has the necessary skill and training to perform the request. There is no charge for the first 15 minutes of search and retrieval time.
5. The agency may charge the actual cost of a computer disk if the information is maintained by computer.

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### III. When public disclosure is not required:

- A. Records that are specifically required by state or federal law or regulation to be kept confidential.
- B. Medical or veterinary records or similar files, the disclosure of which would be an invasion of personal privacy.
- C. **An individual's social security number and insurance or medical information in personnel records may be redacted.**
- D. Records compiled for law enforcement or prosecution purposes but only to the extent such records would disclose the identity of a confidential source, disclose confidential material which would endanger the life or safety of any person or disclose the existence of a confidential surveillance or investigation.
- E. Records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution. An investigation is no longer pending when all direct litigation involving the investigation and prosecution has become final or otherwise terminated. The initial police, arrest, and police incident reports are public records and must be disclosed.
- F. Records of confidential evaluations or examinations prepared in connection with the appointment or hiring of a public officer or employee. Records of investigations related to the suspension, firing, or investigation of complaints against public officers or employees are not public records until 10 days after the information has been presented to the agency for action or the investigation is concluded or terminated.
- G. Real estate appraisals, engineering, or feasibility estimates, or other records made for or by an agency relative to the acquisition of real property until the property has been acquired or the transaction terminated or abandoned.
- H. Records which would identify persons applying for or under consideration for employment or appointment as executive head of the agency. At least 14 calendar days prior to the meeting at which the final action or vote is to be taken for the position, the agency shall release all documents with respect to as many as three persons the agency has determined to be the best qualified for the position. Prior to releasing these documents, the agency may allow such person to decline being considered further for the position rather than have the documents pertaining to the person released. The next best qualified person's documents would then be disclosed.

- I. Trade secrets obtained from a person or business which are privileged or confidential and required by law to be submitted to a government agency.
- J. The identity or personally identifiable information of any person participating in research conducted by DHR. Personally identifiable information means any information which if disclosed might reasonably reveal the identity of such person.

#### **IV. Enforcement and Penalties**

- A. A person who knowingly and willfully violates the Open Records Act by failing or refusing to provide access to records that are public or fails or refuses to provide access to such records within the time limits shall be guilty of a misdemeanor and upon conviction punished by a fine not to exceed \$100.00.