

The Access to Public Records Act, or APRA, is a Rhode Island law that gives individuals the right to see and obtain public records. The law provides guidelines for obtaining access to these records, and also defines which records are subject to public inspection and which are exempt.

#### **WHO IS SUBJECT TO APRA?**

All state and local governmental agencies are public entities and are subject to APRA. This means that every public body or entity is responsible for maintaining records and documents for public review, inspection and copying. The law also applies to various so-called “quasi-public” agencies. Judicial bodies are subject to APRA only in respect to their administrative functions.

#### **WHAT ARE PUBLIC RECORDS?**

A “public record” is broadly defined to include all materials generated or collected by public entities in connection with the conduct of official business. That includes written documents, photographs, tape records, and other records in electronic format, including emails. With one important exception, the law does not require public bodies to reorganize or compile requested data (i.e., create a new document) in a form not maintained by the agency. However, if the requested records are in electronic format and the agency would not be unduly burdened in reorganizing the data as requested, it is obligated to provide the information.

#### **WHICH RECORDS ARE EXEMPT FROM APRA?**

There are more than two-dozen exemptions to what records are accessible to the public, many of them designed to protect individual privacy. Investigatory records of public bodies are also largely exempt. However, an entire document cannot be withheld if only part of it contains information that is exempted from disclosure. In

those instances, the documents should be provided with only the exempt information deleted. If an entire record is withheld, the public body must certify that no portion of the document is releasable.

#### **WHAT IS THE “BALANCING TEST” CONTAINED IN THE LAW?**

For many years, APRA had a broadly-worded exemption that barred any disclosure of most personnel records or other records identifiable to a particular individual. Under a 2012 amendment to the law, however, those types of records are now exempt only if their disclosure would constitute “a clearly unwarranted invasion of personal privacy.” However, medical records, attorney-client documents and other records deemed confidential by other federal or state laws remain exempt from disclosure.

#### **ARE PERSONNEL RECORDS OF STATE OR LOCAL GOVERNMENT EMPLOYEES PUBLIC?**

APRA specifically allows access to certain limited information about state and local employees, as well as employees on public works projects. That information includes their employment contract, salary, overtime, cost of paid fringe benefits and other payments, job title and description, and dates of employment. Pension records of current and retired members of any public retirement system are also public.

#### **WHAT ABOUT POLICE RECORDS?**

Many internal records of police agencies are exempt from disclosure, but only to the extent they meet any of six criteria spelled out in APRA (such as whether their release is likely to involve an unwarranted invasion of privacy, disclose a confidential source, or interfere with investigations of criminal activity). On the other hand, records relating to the management of law enforcement agencies are explicitly deemed public, as are reports reflecting the initial arrest of an adult. Police arrest log information is also available within a quicker (48-72 hour) time frame than other records.

#### **HOW DO I REQUEST PUBLIC RECORDS?**

Each agency is required to have procedures for granting access to public records, and so the process may vary slightly from agency to agency. These procedures should be available on the agency’s website and otherwise made available upon request. As a general rule, it is advisable to put your request in writing, although a public body cannot require written requests for documents that are prepared for, or readily available to, the public.

#### **IS THERE A FORM I MUST USE WHEN SUBMITTING AN APRA REQUEST?**

There is no one statewide form you must use to request a public record. Some agencies may have their own form that you can use to help them in processing requests, but as long as your written request is clearly identifiable as asking for public records, a public body cannot require you to use a specific form.

#### **HOW CAN I RECEIVE MY PUBLIC RECORDS?**

The agency must fulfill your request electronically, by fax or by mail as you request, unless complying with that preference would be unduly burdensome.

#### **IS THERE A FEE FOR PUBLIC RECORDS?**

An agency may charge up to fifteen cents a page for copying records. The agency can also charge up to \$15.00 per hour for the search or retrieval of documents, but the first hour of such costs within a thirty-day time period is free. For electronic records, no more than the “reasonable actual cost” of providing them can be charged. You can also be charged for the cost of delivering the documents. At your request, the agency must provide you with an estimate of costs prior to providing copies. The agency cannot charge you for records if it fails to provide them by the deadline in the law. In addition, a court can waive costs if it determines that the information requested is in the public interest.

## **CAN AN AGENCY REQUIRE ME TO EXPLAIN WHY I WANT THE RECORDS?**

No. APRA specifically bars an agency from requiring you to provide a reason for your request.

## **DO I HAVE TO SHOW ID WHEN I REQUEST PUBLIC RECORDS?**

No. You are not required to provide identification or any personally identifiable information when requesting a document.

## **HOW LONG DO I HAVE TO WAIT TO RECEIVE RECORDS?**

Agencies are required to grant access to public records within ten (10) business days upon receipt of the request. However, an agency may take up to thirty (30) business days to fulfill a request if they can demonstrate that the request imposes an undue burden because it is for a voluminous amount of records, the records are difficult to locate, or due to the number of other requests for records pending before the agency. If your request is denied, the agency must document the specific reasons for the denial and explain how to appeal the decision. Failure to respond to a request within ten (10) business days is considered a denial. If you are requesting basic information about the initial arrest of an adult, as contained in a police log, which has occurred in the past five days, that request must be fulfilled within forty-eight (48) hours. If the request is filed on a weekend or holiday, that deadline is extended to seventy-two (72) hours.

## **HOW CAN I APPEAL A DECISION OF AN AGENCY DENYING ALL OR PART OF MY REQUEST FOR RECORDS?**

There are a number of ways for you to challenge a denial of access to public records:

- File an appeal with the chief administrative officer of the agency where you made the request
- File a complaint with the RI Attorney General's office
- File a civil complaint in superior court
- Contact the ACLU of RI for help

## **WHAT PENALTIES ARE THERE FOR AN AGENCY THAT HAS VIOLATED THE LAW?**

A court can impose a fine of up to \$2,000 for “knowing and willful” violations of the law, and a fine of up to \$1,000 for reckless violations. A successful plaintiff is also entitled to recover his or her reasonable attorneys’ fees and costs for bringing the case. Attorneys’ fees may also be available under some circumstances even if the case is favorably resolved without a court judgment. An agency found to have wrongfully withheld records must also turn over the disputed records at no cost.

## **TIPS FOR REQUESTING PUBLIC RECORDS**

- Determine which agency maintains the public information you are requesting
- Check the website of the public agency for instructions on how to file a request
- Be clear and concise when requesting records
- When possible, include specific information, such as dates, to assist the agency in locating the records requested
- Indicate that you expect to receive the requested documents within 10 business days

# **KNOW YOUR RIGHTS: ACCESS TO PUBLIC RECORDS**



The information in this brochure should not be taken as legal advice. If you have additional questions, or feel your rights may have been violated, please contact the ACLU of RI.

MARCH 2018



ACLU of Rhode Island  
128 Dorrance Street, Suite 400  
Providence, RI 02903  
(401) 831-7171  
[www.riaclu.org](http://www.riaclu.org)  
[info@riaclu.org](mailto:info@riaclu.org)

The public’s ability to access public records – evidence of our government’s official workings – is vitally important for a properly functioning democracy.