

1) VERMONT’S PUBLIC RECORDS LAW

Vermont’s “Public Records Law” is found in Title 1, Chapter 5, Subchapter 3 of Vermont Statutes Annotated ([1 V.S.A. §§ 315-320](#)). The law states that “[A]ny agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state” is obligated to provide access to public records for inspection and copying unless the records are exempt by law from public access.

2) PUBLIC POLICY

“It is the policy of this subchapter to provide for free and open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the general assembly hereby declares that certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed with the view towards carrying out the above declaration of public policy.” [1 V.S.A. § 315](#)

3) RECORDS

Public records are defined by law as “any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business.” [1 V.S.A. § 317\(b\)](#)

4) ACCESS TO PUBLIC RECORDS

[1 V.S.A. § 316](#) states that any person may inspect or copy any public record of a public agency between 9:00 AM and 12:00 PM and 1:00 PM and 4:00 PM on any day other than Saturday, Sunday or a legal holiday. If an agency is not regularly open to the public during these hours, the inspection or copying of records may be made during the agency’s normal hours.

5) PUBLIC RECORD EXEMPTIONS

Pursuant to [1 V.S.A. § 318](#), public agencies are required to produce records for public inspection or copying unless the record is listed as exempt in Title 1, Chapter 5, Subchapter 3 of Vermont Statutes Annotated ([1 V.S.A. §§ 315-320](#)).

While a list of public records exemptions is found in [1 V.S.A. § 317](#), specific exemptions are also found in State and Federal laws and regulations. [1 V.S.A. § 317\(c\)\(1 and 2\)](#) encompasses these other laws and statutes by stating that (1) any records designated by law as confidential (or a similar term) and (2) any records designated by law to be disclosed only to specific people are exempt from public inspection or copying.

Examples of the types of records that are commonly exempt from public inspection and copying include, but are not limited to, personal documents relating to an individual, investigations, trade secrets, tax records, etc. However, it is important for each public agency to have a compilation of specific State and Federal laws and regulations that affect the accessibility and public inspection and copying of agency records.

The Vermont State Archives and Records Administration has two informational resources available to public agencies for the compilation of exemptions and other recordkeeping requirements:

- [The Right to Know Database](#)
- [The Legal Recordkeeping Requirements Database](#)

6) DENIALS OF ACCESS

If a denial of access by the record custodian is appealed to the agency head, the agency head must make a written determination within five business days after receiving the appeal. The written determination shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial. [1 V.S.A. § 318\(c\)](#)

- If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of Title 1. [1 V.S.A. § 318\(a\)\(3\)](#)
- If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. [1 V.S.A. § 318\(c\)](#)

7) PROCEDURAL REQUIREMENTS

The procedure for responding to public record requests is outlined in Vermont’s Public Records Law, particularly [1 V.S.A. § 318](#). All public agencies are obligated to comply with these procedural requirements.

- a) Unless otherwise allowed by law, agencies must accept records requests in any manner or format presented by a member of the public. For example, agencies may not require requests to be made in writing unless staff time, as authorized by law, will contribute to the cost of complying with a request to copy a record. [1 V.S.A. § 316\(c\)](#)
- b) Upon receiving a record request, the custodian of the record must promptly produce the record for inspection. [1 V.S.A. § 318\(a\)](#). However, agencies may

make reasonable rules to prevent the disruption of operations, preserve the records security of records and protect the records from damage. [1 V.S.A. § 316\(i\)](#)

- c) If a record does not exist, the record custodian must certify in writing that the record does not exist under the name given by the individual making the request or by any other name known to the record custodian. [1 V.S.A. § 318\(a\)\(4\)](#)
- d) If the record is in active use or in storage and therefore not available for use at the time at the time of the request, the custodian of the record must certify in writing that the records are not currently available and also establish a day and time, within one week of the request, that the record will be available for inspection or copying. [1 V.S.A. § 318\(a\)\(1\)](#)
- e) If the record custodian believes that the record is exempt from public access, the custodian of the record must certify in writing what records are exempt from public access and the basis for the denial.
 - i) Unless there are any “unusual circumstances” preventing a timely response, a certification must be made within two business days of the receiving the request and the custodian of the record must inform the individual making the request that she or he has a right to appeal to the head of the agency.
 - ii) If the denial of access is appealed and the agency head determines that the record custodian must comply with the request, the records must be made available promptly to the individual making the request.
- f) “Unusual circumstances” means that the agency cannot comply with the time limits outlined in Vermont Public Records Law. If an agency needs an extension, the agency must submit a written notification to the individual making the request and specify the reason(s) why the extension is needed and the date when a determination will be made. Extensions may not exceed ten business days and are only allowed for one or more of the following reasons:
 - i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
 - ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
 - iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the attorney general. [1 V.S.A. § 318\(a\)\(5\)](#)
- g) Agencies with the equipment necessary for copying its records must use the equipment to produce copies. Agencies are not required to provide or arrange for:
 - i) A copying service;

- ii) The use of equipment other than its own;
- iii) The removal of a record for the purposes of copying; or
- iv) the use of staff time to make handwritten or typed copies of requested records.

8) STANDARD FORMATS FOR COPIES OF PUBLIC RECORDS

Standard formats for copies of public records are outlined in [1 V.S.A. § 316](#):

- Copies in paper form;
- Photocopy of a paper record or hard-copy printout of a record maintained in electronic form; and
- Copies in electronic form, in the format in which the record is maintained.

Any other format is considered non-standard. Agencies are not required to create a new record to meet the conditions of a standard format or to convert paper records to an electronic format. [1 V.S.A. § 316\(i\)](#)

9) FEES FOR COPIES OF PUBLIC RECORDS

Agencies may only charge fees for public records that are established by law. Absent any particular statutory fee, public agencies must establish fees based on what is allowed by [1 V.S.A. § 316](#).

Agencies may only charge and collect from the public the actual cost of providing the copy, including costs associated with the mailing or transmission of the record. Staff time for complying with a public record request may not be charged or collected unless the following conditions have been met:

- Staff time directly involved in complying with the request exceeds 30 minutes;
- The agency agrees to create a new record; or
- The agency agrees to provide the record in a non-standard format and the staff time directly involved in complying with the request exceeds 30 minutes.

Upon request, an agency must provide an estimate of the charge. In addition, the agency may request that any requests subject to staff time charges be made in writing and that all charges, whole or in part, be paid prior to the delivery of copies. Receipts must be provided to the public.

The local legislative body of any political subdivision must establish actual cost charges for copies of public records, including costs for staff time. In both cases, the local legislative body must hold a public hearing prior to adopting a uniform schedule of public record charges and the schedule may only be based on the factors outlined in [1 V.S.A. § 316\(d\)](#). A schedule of public record charges must be prominently displayed in town offices.

If the local legislative body of any political subdivision fails to adopt a uniform schedule of public record charges, the *Uniform Schedule of Public Records Charges for State Agencies* must be applied until the local legislative body establishes a schedule of its own.

10) UNIFORM SCHEDULE OF PUBLIC RECORD CHARGES FOR STATE AGENCIES

Pursuant to [1 V.S.A. § 316](#), the Vermont Secretary of State is mandated to establish the actual cost of providing a public record that may be charged by state agencies. The Secretary of State is also required to establish the amount that may be charged for staff time, if authorized under this section of law.

The [Uniform Schedule of Public Record Charges for State Agencies](#), which the Secretary of State adopts by rule after consulting with the Secretary of Administration, may only consider the following factors set forth in [1 V.S.A. § 316\(d\)](#):

- The cost of the paper or the electronic media onto which a public record is copied;
- A prorated amount for maintenance and replacement of the machine or equipment used to copy the record; and
- Any utility charges directly associated with copying a record.

Money collected by a state agency under the *Uniform Schedule of Public Records Charges for State Agencies* may be retained by the agency. Any money collected for the cost of staff time must be deposited into the General Fund unless otherwise authorized by law to deposit money elsewhere.

VERMONT STATE ARCHIVES AND RECORDS ADMINISTRATION

The Vermont State Archives and Records Administration (VSARA), a division within the Office of the Secretary of State, is “charged with administering and implementing a records management program for state government in accordance with professional records and information management practices and principles.” [3 V.S.A. § 117\(b\)](#) Also, public agencies may only destroy records in their custody if specifically authorized by law or through a record schedule approved by the State Archivist. [1 V.S.A. § 317a](#)

State agencies and departments are required to have a records management program approved by VSARA and implement and sustain records schedules that meet VSARA’s requirements. [3 V.S.A. § 218](#)