

Public Records Access Law

On June 3, 2016, Governor Baker signed *An Act to Improve Public Records* into law. Many of the provisions in the new law will take effect on **January 1, 2017**. Please be aware, the current law will remain effective until that time.

Below are a few of the provisions of the new version of the Public Records Law that will become effective next year. It is suggested you consult the complete text of the new law which can be found at:

<https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter121>

If you have any questions, please contact the Public Records Division at 617-727-2832 or pre@sec.state.ma.us.

New Provisions

Records Access Officers

Agencies and municipalities are required to designate 1 or more Records Access Officer (RAO). The contact information for the RAO must be posted conspicuously, including on the agency's or municipality's website, if available.

The RAO has a duty to:

Coordinate the agency's or municipality's response to requests for access to public records;

- Assist individuals seeking public records in identifying the records requested;
- Assist the custodian of records in preserving public records; and
- Prepare guidelines that enable requestors to make informed requests.

Electronic Records

Under the new version of the law, RAOs must provide public records to a requestor in an electronic format *unless* the record is not available in an electronic format or the requestor does not have the ability to receive or access the records in a useable electronic format.

Additionally, as of January 1, 2017, **agency RAOs** will be required to provide on a searchable website electronic copies of commonly requested records, including: final opinions, annual reports, minutes of open meetings and agency budgets. **Municipal RAOs** will also be required to post commonly requested records on their municipal websites, to the extent feasible.

Response Time

Under the current law, a records custodian must respond to a request for records in writing within 10 calendar days.

Beginning January 1, 2017, a RAO must permit inspection or furnish a copy of a requested public record within **10 business days** following receipt of the request. RAOs may petition the Supervisor

of Records for an extension if they are unable to grant access to the requested public records in this time period.

Fees

The Supervisor of Records' Public Access Regulations allowing records custodians to charge **5 cents** for black and white paper copies or computer printouts of public records for both single and double-sided sheets was codified and will remain effective with the new law.

Beginning January 1, 2017, if a response to a public records request requires more than 4 hours of employee time, an **agency RAO** may assess a fee of the hourly rate of the lowest paid employee with the skills necessary to search for, compile, segregate, redact or reproduce a requested record. However, the fee shall not exceed \$25 an hour.

Beginning January 1, 2017, if a response to a public records request requires more than 2 hours of employee time, a **municipal RAO** may assess a fee of the hourly rate of the lowest paid employee with the skills necessary to search for, compile, segregate, redact or reproduce a requested record. However, the fee shall not exceed \$25 an hour, unless approved by the Supervisor of Records. Municipalities with populations of 20,000 people or fewer will be permitted to charge for the first 2 hours of employee time.

Administrative Appeals

As of January 1, 2017, if an agency or municipality fails to comply with a requirement of the new law, the requestor may file an appeal with the Supervisor of Records who will then issue a determination on the public status of the records within **10 business days** of receipt of the request for an appeal.

Attorney Fees

Under the new Public Records Law, if a requestor prevails in a court action against an agency or municipal RAO, the court may award the requestor attorney fees or costs.