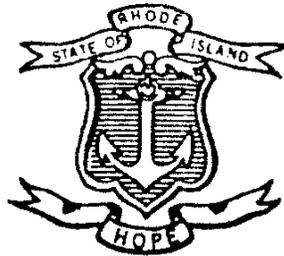


Rhode Island  
Executive Office of Health and Human Services



**Access to Public Records Regulations**

**May 1, 2011**

**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES  
ACCESS TO PUBLIC RECORDS  
RULES AND REGULATIONS**

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**Section 1.0 Authority**

1.1 This Regulation is promulgated pursuant to Rhode Island General Laws (RIGL) § 38-2-1, *et seq.* (*Access to Public Records*) and § 42-35-2(a) (*Administrative Procedures*).

**Section 2.0 Purposes**

2.1 The purposes of this Regulation are:

1. To establish consistency with implementation of RIGL § 38-2-1, *et seq.* and § 42-35-2(a) relating to access to public records maintained by the Department of Human Services; Department of Children, Youth and Families; Department of Behavioral Healthcare, Developmental Disabilities and Hospitals; Department of Elderly Affairs; Department of Veteran's Affairs; and the Department of Health as detailed in the current rules and regulations of the Department of Health regarding *Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health*;
2. To identify and delineate categories of records exempt from disclosure; and,
3. To provide the public with rules and procedures for accessing public records maintained by each of the State agencies set forth in subsection (1) above.

**Section 3.0 Policy**

3.1 The Executive Office of Health and Human Services (EOHHS) recognizes both the public's right to access public records and the individual's right to dignity and privacy. It is the EOHHS policy to facilitate public access to all public records that may be disclosed in accordance with RIGL § 38-2-1, *et seq.* It is also the policy of the EOHHS to ensure all public records under its jurisdiction be available for public inspection and reproduction consistent with all applicable state and/or federal law, unless otherwise prohibited by a court of competent jurisdiction.

**Section 4.0 Procedure for Requesting Public Records**  
**Public Records**

4.1 All records defined as public record in Chapter 38-2 of the RIGL shall be open for public inspection during normal business hours of the Departments.

4.2 All requests for records shall be in writing unless readily available, or available under the Administrative Procedures Act, or prepared for the public. A written request to inspect or copy public records should be sent to the Division within the Department that maintains the records requested or, in the alternative, to the Division of Legal Services at the Department. Written requests may be mailed, hand delivered, e-mailed or sent via facsimile. Hand delivered requests may be made during the Department's regular business hours. It is suggested, but not required; that requests be submitted on the form provided by the Department, forms adopted by EOHHS to request to inspect and/or reproduce public records as well as response to requests can be obtained at [www.ohhs.ri.gov](http://www.ohhs.ri.gov). In order to assure that the Department is able to respond to the request

as efficiently and as completely as possible; the request should identify and describe the records being requested with as much specificity as possible. A written record of all requests will be maintained within each Division of the Department.

- 4.3 If the description of records sought in the request is not sufficient to allow the specific Department to identify and locate the requested records, the Department will notify the requestor that additional information is required. Nothing herein shall be construed as requiring the Departments to reorganize, consolidate, or compile data not maintained by the Departments in the form requested at the time the request to inspect such record is made except to the extent that such records are in an electronic format and the Departments would not be unduly burdened in providing such data.

#### ***Official Publications***

- 4.4 Official publications, which the Departments prepare in the discharge of duty to inform the public on matters of public interest, shall be furnished free of charge when available.

#### ***Copy of Rules and Regulations***

- 4.5 The Departments will supply one paper copy of its rules and regulations, on a particular subject, to an individual requesting the same, free of charge. Rules and regulations of the Departments are also available online on the Departments Websites and the Office of the Secretary of State website, certified copies thereof may be obtained from the Secretary of State office.

#### ***Fee for Records***

- 4.6 The Departments may charge a fee of fifteen cents (\$.15) per page for documents copied on common letter or legal size paper. The Departments will charge the reasonable actual cost for providing electronic records. A reasonable charge may be made for the search or retrieval of documents. Hourly costs for search and retrieval shall not exceed fifteen dollars (\$15.00) per hour and no costs shall be charged for the first hour of the search and retrieval.

#### ***Payment in Advance***

- 4.7 All payments for copies shall be made in advance of or at the time of delivery or inspection of the requested documents. The Departments shall inform the requesting person at the time a request for records is made, or as soon thereafter as possible, the approximate cost that will be incurred for the requested records, and the actual cost will be collected prior to delivery of the requested records. The Departments may require the payment of the approximate costs prior to a search and/or retrieval to ensure that unnecessary costs are not incurred by the Departments when the requesting party decides after the search and/or retrieval not to obtain the requested records.

#### ***Granting/Denying Requests***

- 4.8 A request for records shall be granted if the above procedure has been followed and records sought are not specifically exempt from public disclosure. Any denial

of the right to copy records shall be made by the custodian of the record to the person requesting same. The denial shall be in writing giving the specific reasons for the denial within ten (10) business days of such request. If the records are not made available within ten (10) business days of the request, it shall be deemed a denial. However, for good cause shown, the ten (10) day limit may be extended to thirty (30) business days. In the case of denial, the requestor may petition the Director of the appropriate Department for a review of the denial. The Director shall render her/his decision within ten (10) business days after submission of the review petition. If the Director also denies the request, or refuses to review the petition, or goes beyond the ten (10) business day limit, the person seeking the record may institute proceedings for injunctive or declaratory relief in the Superior Court or file a complaint with the Department of the Attorney General.

- 4.9 The inspection of public records must be accomplished in a manner which will provide for general supervision by authorized Departmental staff. This is necessary to prevent the misplacement or unauthorized removal of records or any other action which may impair the integrity of the public record.
- 4.10 Personnel in charge of the Division having possession of the public record requested shall have overall responsibility for the security of the public record. However, the individual in charge of that Division may designate a staff member(s) to coordinate the functions and responsibilities related to the copying and inspection of public records.
- 4.11 All personnel responsible for responding to requests for access to public records shall be made aware by their supervisors, of the provisions of this regulation and the procedures to be followed when an access to public records request is made. Department personnel having any questions regarding the procedures to be followed should direct inquiries to:
1. The person in charge of the Division or unit within the Department responsible for the activity/function to which the public record being requested relates; or
  2. In the event that the public record cannot be readily categorized as falling under the responsibility of a specific Division or unit within the Department, the request should be directed to the Division of Legal Services which will serve as a resource in matters relating to the public's access to public records.

***Non-disclosable Information***

- 4.12 Evidence submitted, and accepted, on a confidential basis pursuant to section 4.13 of these rules shall not be available for public inspection. If a record contains both disclosable and nondisclosable information, the disclosable portion will be available for inspection unless it cannot reasonably be segregated from the rest of such record.

***Contents of Records***

- 4.13 The record shall, at all reasonable times, be available for inspection by the parties. Confidential, proprietary, or trade secret information including information qualifying as a non-public record under sub-section 38-2-2(d) shall, upon motion of a party and for good cause shown, be received at a closed hearing and not be

released for public scrutiny. Any such evidence received on a confidential basis shall not be subject to disclosure. The record of every contested case shall include the hearing notice, all pleadings, motions, all rulings, exhibits, evidence considered, statements of matters officially noted, proposed findings of fact and law and exceptions claimed thereto, decision and/or order, proposed decision and /or order.

***Exculpatory Material***

4.14 Any Department attorney or employee, appearing in an adjudicatory proceeding on behalf of the Departments, has a duty to disclose to the other parties to the proceeding: relevant material or information which supports the position of any other party, where the value of the material or information to that party is or should have been apparent, or where disclosure of the material or information is specifically requested by a party. The duty of the attorney or employee extends to material or information within her/his personal knowledge or possession, or in the possession or control of or known by any person who assisted the Departments in the investigation or preparation of the proceeding, and who either regularly reports to or with reference to the particular proceeding has reported to the attorney or employee.

**Section 5.0 Severability**

5.1 If any provision of these rules and regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of these rules and regulations are declared to be severable.