



Public Records: Questions and Answers

North Carolina Department of Justice

Attorney General Roy Cooper

1. What is the public policy regarding public records?

The North Carolina General Assembly has declared as a matter of public policy that the public records and public information compiled by agencies of North Carolina government or its subdivisions are the property of the people.

N.C.G.S. § 132-1(b)

2. What are public records?

Public records are documentary materials that are either made or received by government agencies in North Carolina in carrying on public business. Public records include documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts or other documentary material, regardless of physical form or characteristic.

N.C.G.S. § 132-1

3. Who may inspect or get copies of public records?

Any person may inspect and get copies of public records.

N.C.G.S. § 132-6

4. To whom should a request for public records be directed?

The Public Records Law does not describe any specific procedure that a person must follow in requesting to inspect public records. Normally, a request to any employee in a government office is sufficient to get access to records in that office. However, it is the custodian of public records who is specifically required to allow those records to be inspected. The public official in charge of an office is designated to be the custodian of records for that office.

N.C.G.S. § 132-2

5. When are public records available for inspection or copying?

The Public Records Law says that inspection and examination of records should be allowed at "reasonable times" and under the reasonable supervision of the agency. "Reasonable times" is generally understood to mean during regular business hours.

N.C.G.S. § 132-6

6. May citizens request copies of public records in any media available?

If an agency has the capability to provide copies of public records in different kinds of media (for example, in print or on computer disc), people requesting copies may choose to get copies in any and all the media available. People requesting copies of computer databases may be required to make their requests in writing.

N.C.G.S. § 132-6.2(c)

7. May an agency charge fees for public records?

Government agencies may not charge fees for *inspecting* public records. Fees for certifying copies of public records are provided by law. However, unless otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public record that exceeds the actual cost to the public agency of making the copy.

N.C.G.S. § 132-6.2(b)

8. Must a public agency provide information in verbal form? The Public Records Law requires that government agencies permit people to inspect or get copies of information that is in recorded form. The law does not indicate that government agencies are required to provide information verbally to people who request it.

N.C.G.S. § 132-6.2(e)

9. What about inspecting or getting copies of records that contain both public and confidential information?

Some records contain both public and confidential information. Government agencies may not refuse to permit inspection or to provide copies because public records contain some confidential information. Agencies must permit inspection and provide copies of the public, *non-confidential* parts of these records..

N.C.G.S. § 132-6(c)

10. What are the remedies available if an agency refuses to release or disclose a public record?

Any person who is denied access to public records for the purposes of inspection or examination, and any person who is denied copies of public records, may bring a civil action in court against the government agency or official who is denying access or copies. Courts are required to set public records suits for immediate hearings and to give hearings of these cases priority over other cases. The court may order the agency to permit inspection or provide copies if the court determines that the person seeking the records is entitled to them.

N.C.G.S. § 132-9

Note: While the Attorney General's Office may attempt to mediate disputes involving issues of access to public records, they do not have enforcement authority. Only a court may enforce this law.

11. Are certain government records exempt from disclosure?

The public records law exempts certain types of records from required disclosure. The law says that records containing certain communications between attorneys and their government clients, state tax information (*N.C.G.S. § 132-1.1*), trade secrets (*N.C.G.S. § 132-1.2*), certain lawsuit settlements (*N.C.G.S. § 132-1.3*), criminal investigation records (*N.C.G.S. § 132-1.4*), and records about industrial expansion (*N.C.G.S. § 132-6(d)*), are not public records.

Several statutes regulate public disclosure of personnel information of government employees. Although some personnel information is public (for example, name, age, date of employment, current position, title, current salary, date of most recent salary or position assignment change and location of current assignment) personnel files of state, county and municipal employees are generally confidential. See *N.C.G.S. §§ 126-22, 153A-98, 160A-168, 115C-321, 115D-29, 122C-158, 130A-42, 131E-97.1, 162A-6.1*. These rules apply to personnel information for applicants, current employees, and former employees.

12. If records containing “criminal investigation” information are not public records, does that mean that all law enforcement records are confidential?

No. *N.C.G.S. § 132-1.4 (a)* states that records of criminal investigations conducted by public law enforcement agencies or records of criminal intelligence information compiled by public law enforcement agencies are not public records. However, unless otherwise prohibited by law, certain information collected by public law enforcement agencies is public record as defined by the Public Records Law. For example, the time, date, location and the nature of an apparent violation of the law reported to a public law enforcement agency, and the name, sex, age, address, employment and alleged violation of law of a person arrested, charged or indicted are public information.

N.C.G.S. §132-1.4 (c) (1) & (2)

Note: State Bureau of Investigation (S.B.I.) records are not public records and access to them is not available under the Public Records Law. Case law has held that access to S.B.I. records is controlled entirely by N.C.G.S. § 114-15. Similarly, case law has held that prison records are confidential and are not subject to inspection by the public or by the inmate involved.

13. Does the Public Records Law cover access to records of federal agencies?

Records of federal agencies in North Carolina are not covered by the Public Records Law. However, in 1966, Congress passed the Freedom of Information Act (FOIA). The Freedom of Information Act (*5 U.S.C. § 552*) generally provides that any person has a right, enforceable in court, of access to federal agency records, except to the extent that such records (or portions thereof) are protected by one of the nine exemptions or by one to three special law enforcement record exclusions. Persons seeking federal records under FOIA should contact an agency public information officer. If this informal contact is not successful, a formal written request should be filed. Appropriate contacts may be determined by calling the agency or by referencing the *Federal Register*, available in the documents sections of larger institutional libraries or through the state library.

For more information about open meetings, please contact:

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