

TX PIAs

Obtaining Records Using Texas Law

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17 Concepts to Understand When Making Open Records Requests

Drafting Your Request for Records

- 1.) All information is presumed open, unless there is a specific exception stated regarding the information. All requests must be in writing to trigger the PIA.
- 2.) **Paper, Email, Audio, Video and more could be considered public information subject to the PIA. All information produced or maintained by a government agency or individual employee is potentially subject to the PIA.**
- 3.) Non-governmental entities and entities supported with public funds are also subject to the PIA. However, the PIA does not apply to the Judicial branch, but the Court's Custodian of Records may be applied to for any Judicial information.
- 4.) Governmental agencies can charge for the cost of compiling records and materials, but there are rules for how to charge for records on the SOS website.
- 5.) **Records requested must already be in existence.**
- 6.) Open Records do not need to be addressed to specific individuals in a governmental body, unless otherwise stipulated by Law to be addressed to an individual within an agency.. Identify this particular employee if possible. "Public Information Coordinator" will be their title.
- 7.) There is no need to cite any law or even the PIA to draft a lawful open records request.

Information is Presumed Open

When drafting your request, understand that all information is presumed open, so you should be confident in requesting copies. Be clear and reasonable and expect to pay a small fee for physical copies, however if you can use digital files then be sure to request the information be sent digitally.

Timeline for Agencies to Respond

- 8.) The governmental agency you are requesting information from has 10 days to respond that they are processing your request and up to 45 days for an opinion from the AG related to information the agency believes may not be covered by the PIA.
- 9.) If a governmental agency believes that information is confidential by Law it may NOT simply refuse a proper request for information. The agency must, within 10 days, submit a request for a ruling from the AG related to whether they can refuse the request. Officials must then demonstrate to the AG how the information is excepted. Silence or denial without an AG ruling does not meet the law. Five additional days are allowed for this citation to be filed following their request.
- 10.) The agency has 10 days to submit a request for a ruling by letter to the Open Records division detailing which exclusions apply to the request. If the agency disregards the 10 day rule, the information is presumed open to the public, and must be released unless already deemed confidential by Law. If an agency fails or refuses to provide information covered by the PIA, they may be charged and fined, or jailed for up to 6 months in county jail, and removal from office due to Official Misconduct is also an option.
- 11.) The agency must notify the requester by the 10th business day that there may be a delay due to their request for a ruling. The agency will notify any third party about the request for a ruling on the information.
- 12.) By the 15th business day the agency must provide the Open Records department with arguments supporting why they believe the information is excepted from the PIA and this must also include the date the agency first received the request, in order to meet the Law.
- 13.) The AG has 45 business days to issue a ruling in response to a request for a ruling and can extend this time period once by 10 days, and the requestor will be notified in writing of any extension.

Time Your Request Accordingly

If you are operating under a time constraint then be sure to file your Open Records Request as soon as possible. Expect the process to take a minimum of 60 days, and expect the local government to resist providing information related to very sensitive or sensationalized topics.

What to Expect

- 14.) If an exception applies, the information will not be released, otherwise the agency must release the information. If you believe a factual mistake has been made, a suit must be filed within 30 days of the denial being received. Formal complaints will include a civil or criminal complaint in writing with the DA or County Attorney, or with the Travis County DA or the AG.
- 15.) A Writ of Mandamus can be filed when an agency refuses to give access to public records, refusing to request an ag ruling, refusing to release information that is unchallenged.
- 16.) Requestor cannot be sued, but may sue to intervene in any suit against the AG ruling.
- 17.) It is a crime to destroy, alter or remove public information.

You Have Recourse

Be prepared to file a civil suit or a Writ of Mandamus to obtain a favorable opinion related to the release of information you believe you should have access to under the Law.

