

# HOW DO PUBLIC RECORDS WORK?

Tips and tricks for getting records

Resources on how to use them

By Arizona Agenda



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# INTRODUCTION TO PUBLIC RECORDS

The government holds a lot of documents that are **YOURS** — not just your own information, but all the stuff you may want to know about your community, our laws and how they're made, our elected leaders and bureaucrats and police.

To get access to these documents, you can file public records requests with local and state agencies in Arizona. We'll provide you with a template and an understanding of how the law works in Arizona. **You can find our records request template at [bit.ly/38MOOAD](https://bit.ly/38MOOAD).**

Why would you want to request public records? Maybe you want to see how your kids' school is spending its budget, or what school board members are saying to each other out of the public eye. Maybe you want to see how many times the police have been called on your neighbors, or see what records the local police have on you. Perhaps you have been battling your local zoning board and want to see what they're saying about you.

**There are hundreds of reasons you might want to keep tabs on the government through public records requests, and we'd like to help you.**

Unfortunately, you may have to fight for your records. Keep in mind: The government isn't doing you a favor by fulfilling a public records request. Government employees are doing their jobs.

We are journalists who request public records regularly as part of our work. We want you, as a person who lives here, to be able to do the same. Once you get the hang of it, it's not too hard. And you can learn a ton about how government happens and the ways it affects your life.

Here's our simple breakdown of public records laws in Arizona. Federal law is different, but there's all sorts of helpful explainers out there about how to file Freedom of Information Act (FOIA) requests with federal government agencies. (Check out MuckRock's guide to requesting your own FBI file, for example, at [bit.ly/3I1PVC7](https://bit.ly/3I1PVC7).)



# HOW DO PUBLIC RECORDS WORK?

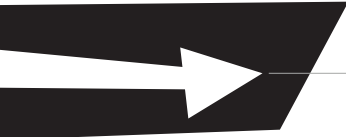
Title 39 of the Arizona Revised Statutes outlines how public records work in Arizona.

“All officers and public bodies shall maintain all records ... reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from this state or any political subdivision of this state,” the statute says.

These public bodies must provide requested records “promptly,” though no exact timeline is set out, and some agencies take their time.

Case law in Arizona says that records must have a “substantial nexus” to government activity in order to be considered public. That means that, just because something may be created on a government device, it isn’t presumed to be public. But that also means the reverse is true: Public records can be created on private devices, if they have a substantial nexus to government activities.





It is not the medium that matters, in this context. It's the message. If the work is on behalf of the public, the documents are public.

Title 39 - Public Records, Printing and Notices

Search ARS Title 39

Click on the Section Number to open/view the document. [CLOSE ALL CHAPTERS](#)

- Chapter 1 PUBLIC RECORDS
  - Article 1 Requirements for Material Used

You are entitled to documents in their native format, including any metadata. This means, if you request a database, you should be able to get a copy of the database in its proper format instead of as a PDF.

- Article 4 False Instruments and Records
  - 39-161 Presentation of false instrument for filing; classification
- Chapter 2 PRINTING AND PUBLICATION
  - Article 1 Contract for Printing
    - 39-201 Definitions
    - 39-202 Contract for public printing; bids; award
    - 39-203 Number of publications for compliance with requirement of notice for specified time
    - 39-204 Publication of notice; time; place
    - 39-205 Proof of publication; filing
  - Article 2 Price and Composition
    - 39-221 Price for printing; size of type

Arizona courts operate with different rules with regard to public records. Instead of state statutes, Supreme Court Rule 123 governs access to court records. Records are presumed open, with exceptions, similar to how state public records laws operate.



# THERE ARE SOME EXCEPTIONS...

In general, a record is presumed to be public unless there are exemptions that prevent its release. But there are hundreds of state statutes that make parts of records or entire records exempt from public records.

Agencies can redact certain elements of records as well, but only under specific circumstances. You can always ask why information was redacted. They must tell you.

## SOME EXAMPLES OF EXEMPTIONS:

- PRIVACY INTERESTS THAT MAY OUTWEIGH THE PUBLIC'S RIGHT TO KNOW
- THE "BEST INTERESTS OF THE STATE," MEANING THE STATE MAY BE HARMED MORE THAN THE PUBLIC COULD BE HELPED BY RELEASING THE INFORMATION
- ITEMS THAT ARE CONFIDENTIAL BY LAW, LIKE SOME PERSONNEL INFORMATION, INFORMATION THAT PERTAINS TO MINOR CHILDREN, TRADE SECRETS AND MORE

You can always challenge these exemptions by advocating for yourself or seeking advice from other parties, like lawyers.



# TIPS AND TRICKS FOR GETTING RECORDS.

- **Always start with honey over vinegar.** Talk to the people who manage records requests, not the media relations or PR folks. Be kind unless or until you are being pushed around.
- **Keep requests as narrow as possible** without forgoing your rights to access. You want your records fast, but you also want the stuff you're looking for.
- **If a request overlaps agencies, request from all agencies involved.** One might withhold, while the other might release.
- **Ask that parts be released as they are available.** If your request is large, you can ask the agency send it in chunks as they become available, instead of waiting until it's all ready.
- **Fill out the form, but you don't have to.** Again, you want to get records as quickly as possible. Some agencies have forms they want you to fill out with the records you're requesting. You do **NOT** have to do this, but it may speed up the process.
- **You don't have to tell any agency why you want a record.** And if you do, it might affect when and how you get your records. You only have to say if your purpose is commercial or non-commercial. News and research are considered non-commercial.



# WHAT KINDS OF THINGS ARE PUBLIC RECORDS?

**IF IT WAS CREATED AS PART OF DOING PUBLIC BUSINESS, IT'S PROBABLY A PUBLIC RECORD. HERE ARE SOME EXAMPLES:**

- Emails
- Calendars
- Legislative reports
- Investigations
- Text messages
- Policies and procedures
- Training materials
- Photos
- Videos
- Databases
- Meeting minutes
- Accident and incident reports
- Personnel records
- Receipts and other records of public spending
- Draft reports
- Budgets
- Autopsy reports
- Notices of claim

## **FROM WHERE?**

- State agencies
- Schools and school boards
- City, county and legislative officials
- Police departments
- Statewide elected officials like the governor, Corporation Commission, Secretary of State
- Basically, any public entity



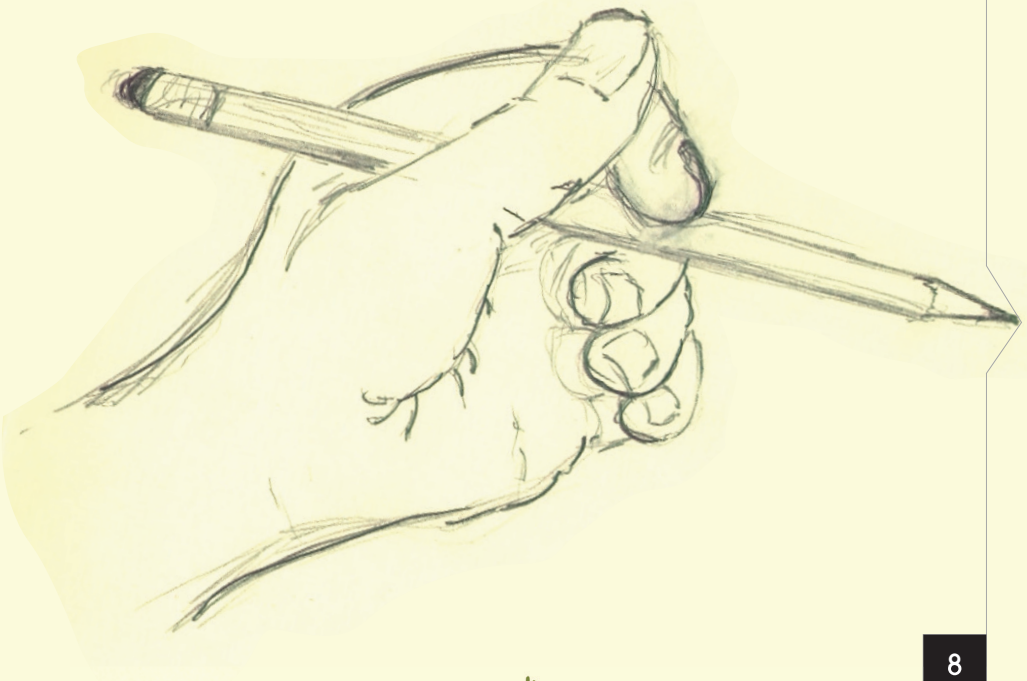


# DOES IT COST MONEY?

Public bodies can charge money for copies of records. They can't charge the public for the time their employees spend searching for or redacting records. If the cost seems too high, you can ask how the price was arrived at and try to argue against it.

If you're requesting records for commercial purposes, agencies can charge more. But if you're a citizen or member of the media requesting records, that isn't a commercial purpose.

You also have the right to inspect a record in person for free. During this inspection, you can take photos or make your own scans and copies of a record. This can save you money, but often takes more time.



# WHAT HAPPENS IF THE AGENCY WON'T GIVE ME MY RECORDS?

STONEWALLING IS SADLY A COMMON ELEMENT OF RECORDS REQUESTING.

## WHAT HAPPENS IF THE AGENCY WON'T GIVE ME MY RECORDS?

FIRST, MAKE SURE YOU FOLLOW UP REGULARLY ON YOUR REQUEST.

CHECK IN VIA EMAIL AND PHONE TO SEE HOW YOUR REQUEST IS PROGRESSING. **BE A THORN IN THE SIDE, BUT BE POLITE ABOUT IT.**



# WHAT HAPPENS IF THE AGENCY WON'T GIVE ME MY RECORDS?

You can contact the **Arizona Ombudsman - Citizen's Aide** to intervene and help you try to get the records. The office has limited jurisdiction to help with complaints, though. Their website, **azoca.gov**, provides resources about public records laws and strategies to get records.

**The First Amendment Clinic** at the Sandra Day O'Connor College of Law at Arizona State University also might be able to help.

You can file a lawsuit. This is cost-prohibitive for many and may not result in getting records in a timely fashion.

You can **contact a journalist**, like us, and see if **public pressure** could help the situation. A journalist may be willing to file a similar request and see how it goes.



ONCE YOU GET YOUR RECORDS, IF IT'S STUFF YOU THINK COULD BE INTERESTING TO THE BROADER PUBLIC, SHARE IT WITH US. WE MAY WANT TO REPORT ON IT!

**YOU CAN EMAIL IT TO  
RACHEL@ARIZONAAGENDA.COM OR  
HANK@ARIZONAAGENDA.COM.**

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