



Steven M. Costantino

Secretary of Health and Human Services
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MEMORANDUM

**To: Directors, Deputy Directors,
CFO's and Public Information Officers**

From: Steven M. Costantino

Date June 11, 2012

Subject: Policy and Procedures for Responding to Requests for Public Information

I am issuing these guidelines to be strictly followed regarding requests for public information from members of the media, members of Congress and other government officials, and requests for public/legal records by any person or entity.

In order to be in compliance with the Access to Public Information Act (APRA), timeliness is of the essence in responding to requests for information.

All state and local government agencies are public entities and are subject to the APRA. This means that every public body or entity—and that includes EOHHS and its departments—is responsible for maintaining records and documents for public review, inspection, and copying.

We are required to grant access to public records within 10 business days of the initial request, whether it is made verbally or in writing. For “good cause,” we may take up to a total of 30 business days to respond to a request.

Any denial of records by EOHHS and/or its departments must include the specific reasons for the denial and include an explanation of the procedures for appealing the decision. **Our failure to respond to a request within 10 business days is considered a denial UNLESS we have informed the party making the request that we are taking the additional 20 business days allotted to respond.**

Failure to produce the documents requested within the allotted time frame can result in a complaint filed with the Office of Attorney General. Failure to comply with the APRA, if deemed “knowing and willful” by the Attorney General, can then lead to a finding that the

department in question is in violation of the APRA—a situation that is serious, and unacceptable.

The APRA defines a public record as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities), or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. RIGL 38-2-2(4)(i).

There are 25 exceptions to the APRA that make the requested record exempt from public disclosure. To be aware of these exceptions and in order to learn more about the APRA, I am including the link to a great resource, the *Attorney General's Guide to Open Government in Rhode Island*.

<http://www.riag.state.ri.us/documents/opengov/guidetoopengovernmentbookletfullpagetext.pdf>

PROCEDURE

- If a request for public records is received by the Public Information Officer, the PIO should immediately notify legal counsel for his/her department, even if the request can seemingly be easily responded to. (This does NOT apply to media inquiries that do not include a request for public records, although legal is consulted in regard to media inquiries when appropriate or necessary.)
- In order to document all APRA requests, the requests must be logged in at one central point in each department. ***At EOHHS and DHS, all APRA requests received by the PIO or any individual must be directed to Jennie DellaPosta in the Legal Department.***
- If it appears that it may take more than the 10 days granted under the APRA to fulfill the request, all EOHHS departments are required to inform their respective legal departments well before the 10 business day limit expires. All EOHHS departments must inform legal as to why the documents cannot be produced within the 10-day limit so that legal can include this information in the letter extending the time for compliance.
- Legal will provide appropriate notification to the media outlet, reporter, government official or person seeking public information or legal records, stating in writing that we are taking the 20-day extension. IF the APRA request was generated by a reporter or media outlet, Legal must supply the PIO with a copy of the letter stating we are taking the extension.
- **All responses regarding requests for public documents, including the production of documents, are to come from the legal office.**
- If a media request of any type is received by any person in any department other than the PIO of that department, the request should immediately be forwarded to the PIO.
- If a media request of any type is received by legal, the request should immediately be forwarded to the PIO of that department.

