

RECORDS POLICY

Adopted by Legislative Council under AS40.25.123(b) on March 14, 1997;
updated June 26, 2007; Amended May 2, 2016

Section I. Committee Records and Legislator's Office Records.

1. Legislator's Records, Leaving Office.

(a) **While in Office.** The Legislative Council finds that records of a Legislator while in the possession of that Legislator are not public records based on the deliberative process privilege and on art. II, sec. 6, [Alaska] Constitution of the State of Alaska. Therefore a Legislator's records are not subject to disclosure under AS 40.25.110 - 40.25.122. Each Legislator may, at his or her discretion, while in office or after leaving office, elect to release or not to release information from that Legislator's own records. However, the Council recognizes that public information that is available from another agency or governmental entity may be obtained by any person directly from that agency even if a Legislator declines to make the same information available from the Legislator's own records.

(b) **Incapacity of a Legislator.** The Legislative Council finds that the records of a Legislator who becomes incapacitated while in office are not public records and are protected under (a) of this section. Records of an incapacitated Legislator shall only be released during the period of incapacity if the Legislator executed a waiver and release under (d) of this section before incapacity.

(c) **Death of a Legislator.** The Legislative Council finds that the records of a Legislator who dies in office are not public records and are protected under (a) of this section and remain protected after death. Records of a Legislator who dies may only be released if the Legislator executed a waiver and release under (d) of this section.

(d) **Waiver and Release.** The Legislative Affairs Agency shall provide a form to each Legislator at the beginning of each Legislature or after a Legislator is appointed to allow the Legislator to elect how his or her records will be treated upon the incapacity or death of the Legislator. Each Legislator may amend the form at any time. The Legislator may elect to waive and release his or her records upon incapacity or death, and shall direct to whom the records shall be released. The records of a Legislator that fails or refuses to execute the form will be protected under (a) and (c) of this section, will not be public records, and will not be released.

(e) **Responsibility for Records.** Each Legislator is responsible for organizing, maintaining, and storing his or her records. When organizing, maintaining, and storing records, and when making a decision to release records, each Legislator should consider the privacy interests of a person identified in the records, state and federal confidentiality laws, and confidentiality requirements imposed by law or agreement. While a Legislator is in office and subject to the availability of storage space, the Legislative Affairs Agency will store records of a Legislator for not more than five years. If a Legislator dies or leaves office and has not removed, or provided for the removal of, his or her records from property provided by or controlled by the Legislature, the Legislative Affairs Agency will store the records for 90 days. Records of a Legislator remaining in the possession of the Legislative Affairs Agency after this 90-day period will be confidentially destroyed.

2. Committee Records. Records of a standing, special or joint committee of the type listed in Uniform Rule 23(f) and in the possession of the committee are public records and shall be made available by the committee to a requestor within 15 days after receipt of a request that describes the records sought in sufficient detail to enable the committee to locate the records. The Legislative Council finds under AS 40.25.110(d) that it is in the public interest to make committee records readily accessible to any interested person, so no fee may be charged for the production of records by a committee under this subsection.

3. Authority. The Legislative Council adopts this records policy under authority granted in AS 40.25.123(b) and AS 24.20.060.

Section II. Legislative Affairs Agency Records.

1. Records Requests and Charges.

(a) Public records of the Legislative Affairs Agency (LAA) are open for public inspection during regular office hours except as noted in items 2, 3, and 4 under Section II of this policy. Members of the public may copy public records using Agency photocopying equipment as long as the copy machine is not needed for Agency business and the copy cost is reimbursed to LAA.

(b) If a request for a public record is received from a member of the public who does not reside in the Capital, that person will be notified that public records are available for inspection and that the requestor or a representative may come into the Agency during regular office hours and inspect those records.

(c) Requests for public records and the name or names of the requestor are a public record. Copies of public records provided to a member of the public by the Legislative Affairs Agency will automatically be forwarded to the person or persons about whom the information is requested.

(d) The Legislative Affairs Agency will give on request and payment of the appropriate fee a copy of the public record. Copying public records will be made as work schedules allow and will not be given precedence over or interfere with the business of the Legislature or the Agency.

(e) Fees for copying Legislative Affairs Agency public records are set by the Executive Director of the Agency. If a requestor has not paid the fee required for the record, or if their check has not been honored by their bank, no further research requests will be performed for the requestor until any amount owing is paid in full. The Executive Director may reduce or waive a fee if, in the opinion of the Executive Director, the reduction is in the public interest.

(f) Copies of 10 pages or less are allowed to members of the public at no cost. The current charge for any copy project that exceeds 10 pages is \$.25 per image. A two sided copy costs \$.50.

(g) The current charge for recordings of committee meetings is \$1.00 per cassette.

(h) Personnel and materials costs will be charged for requests for records provided by electronic media. The cost will vary depending on the time required to prepare the information requested.

(i) If the production of records for one requester in a calendar month exceeds 5 person-hours, the Agency shall require the requester to pay the personnel and copying costs required during the month to complete the search and copying tasks. The requester will be notified of the estimated cost of the research and be required to submit a check or cash for the amount. The Agency will cash the check before any research begins. If the research exceeds the original estimate subsequent payments will be requested, received and cashed before research continues. This section does not prohibit the Agency from charging for a research and copying project which was not originally anticipated to take 5 person-hours but did take that amount of time to complete.

2. Personnel Records.

(a) In order to protect applicant's and the employee's right to privacy, the recruitment, personnel and payroll records maintained by the Legislative Affairs Agency Personnel Office are considered confidential and are not open to public inspection except as provided in this section and in (3) of this section. The LAA Personnel Office will not give out home addresses or telephone numbers to the public or other employees except that:

1. Appointing authorities and supervisor's have access to this information for employees they supervise.
2. Agency personnel responsible for mail distribution have access to this information as needed to forward personal mail received at an office address.
3. The Executive Director has access to this information and may release this information to other employees, Legislators, or in case of emergency to the public if necessary.

The following information regarding employee records is available to the public at reasonable times and in a reasonable manner.

Employee names

Current and former position titles held by an employee

Pay range and step

Authorized compensation

Exempt service status

Dates of employment

Supervisor's name

(b) For the purposes of this section, authorized compensation includes the salary and employer paid benefits, and also includes leave accrual rates. Authorized compensation **does not** include voluntary deductions or garnishments to an employee's pay, tax withholding information, leave balances, or an employee's net pay.

(c) Employees may examine their own or authorize in writing other persons to examine their personnel and payroll records at reasonable times during normal office hours. Personnel and payroll files may not be taken from the Personnel Office.

3. Investigations.

(a) Requests for public records in cases involving official investigations by duly constituted authorities or the Select Committee on Legislative Ethics are not considered public records. Copies of information provided to the Select Committee on Legislative Ethics by the Legislative Affairs Agency will automatically be forwarded to the person or

persons about whom the information is requested. The Executive Director may release information involving other official investigations to the person or persons about whom the information is requested. This does not mean that the record in question, if otherwise considered a public record under this policy, is not available as a public record. It means the investigative request is confidential.

(b) Investigations by the management of the Legislative Affairs Agency are not considered public records while the investigation is in progress. The Executive Director may release information at the completion of the investigation if the public record is not otherwise considered confidential under this policy.

4. Contracts.

(a) Draft contracts are confidential between the requestor and the Agency. If the requestor of the contract chooses to release a draft contract they may do so or request that LAA release the draft.

(b) Procurement records which are required to be kept confidential by the Legislative Procurement Procedures are not public records.

Section III. Appeal from Denial of a Record or Denial of a Request to Reduce or Waive a Fee for Production of a Record.

1. Manner of requesting an appeal. A person, whose written request for a record from an agency or committee of the legislative branch or for reduction or waiver of a fee for producing a record has been denied, may ask for reconsideration of the denial by submitting a written appeal to the person who denied the request. The appeal must be received within 60 working days after the denial was issued and must include the date of the denial and a description of the record involved that is the subject of the appeal. The appeal must also explain why the denial of the request for the record or for reduction or waiver of the record production fee may have been in error.

2. Response to an appeal.

(a) A response to an appeal involving a record of a legislative committee, commission, or task force shall be prepared by the chair or a co-chair of that committee, commission, or task force. A response to an appeal involving a record of the Legislative Affairs Agency, other than a record of the Division of Legal and Research Services, shall be prepared by the Executive Director of the Agency. A response to an appeal involving a record of the Division of Legal and Research Services shall be prepared by the head of the Division. A response to an appeal involving a record of another legislative division or agency, including the Office of the Ombudsman, shall be prepared by the head of that division or agency.

(b) The person charged with responding to an appeal may request additional information from the person who submitted the appeal. A written response to an appeal must be delivered to the person who submitted the appeal within 30 days after the appeal was received. If the appeal is denied, the response must state briefly the reason for the denial. A denial under this subsection is the final administrative decision in the matter.

The response shall state that it is the final administrative decision under the Legislative Council Records Policy, Sec. III(2)(b).

3. Authority. The Legislative Council adopts this records policy under the authority granted in AS 40.25.123(b) and AS 24.20.060.

Section IV. Security Camera Policy.

1. Purpose. The legislature may use security cameras, generating video tapes, digital recordings, or other records of areas surveyed, exclusively for security surveillance and to investigate possible criminal activity. Security cameras may only be used within space that is occupied by or under the control of the legislature.

2. Confidentiality of Materials. Security camera video tapes, digital recordings, or other surveillance materials are confidential and may not be released to the public or press. Except as required by a subpoena or other court order and except as provided in **4** and **5** of this section, the only individuals authorized to have access to the security camera surveillance materials are (1) the Executive Director of the Legislative Affairs Agency; (2) a Building Manager employed by the Legislative Affairs Agency; and (3) a Security Officer employed by the Legislative Affairs Agency. Therefore, there is no process or procedure for requesting security camera surveillance materials, except as provided in **4** of this section.

3. Storage and retention of surveillance materials. Security camera surveillance materials must be stored by the Legislative Affairs Agency in a secure manner and kept for approximately thirty days. The oldest surveillance material must be first erased as the hard drive or other storage method becomes full. However, surveillance materials must be kept as long as there is a possibility that they will be needed if (1) they are the subject of a subpoena or other court order; (2) they are the subject of a request for access under **4** of this section; or (3) they capture information related to criminal activity or some type of accident or other security risk. Those segments must be moved to long-term storage.

4. Access to surveillance materials by legislators. A legislator, for any reason, may submit a request to view security camera surveillance materials to the Chair of the Legislative Council, who shall, in turn, submit the request to the Legislative Council. The requesting legislator may view surveillance materials only to the extent approved by the Legislative Council.

5. Access to surveillance materials by peace officers. If an individual authorized to have access to security camera surveillance materials determines to a high degree of probability that the materials reveal a serious security risk or criminal activity, the individual shall notify a peace officer, permit inspection of the surveillance materials by the peace officer, and permit the peace officer to take the materials for the purpose of conducting a security or criminal investigation.