

STATE OF NEW YORK

2520--A

Cal. No. 1434

2025-2026 Regular Sessions

IN SENATE

January 21, 2025

Introduced by Sens. SKOUFIS, BRISPORT, CLEARE, JACKSON, KRUEGER, C. RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the public officers law, in relation to time frames for responding to requests for records under the freedom of information act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 of section 89 of the public officers law, as
2 amended by chapter 223 of the laws of 2008 and paragraph (c) as added by
3 chapter 47 of the laws of 2018, is amended to read as follows:

4 3. (a) Each entity subject to the provisions of this article, within
5 five business days of the receipt of a written request for a record
6 reasonably described, shall make such record available to the person
7 requesting it, deny such request in writing or furnish a written
8 acknowledgement of the receipt of such request and a statement of the
9 approximate date, which shall be reasonable under the circumstances of
10 the request, when such request will be granted or denied, including,
11 where appropriate, a statement that access to the record will be deter-
12 mined in accordance with subdivision five of this section. If such
13 acknowledgement is not furnished within five business days, such request
14 shall be deemed denied and is appealable.

15 An agency shall not deny a request on the basis that the request is
16 voluminous or that locating or reviewing the requested records or
17 providing the requested copies is burdensome because the agency lacks
18 sufficient staffing or on any other basis if the agency may engage an
19 outside professional service to provide copying, programming or other

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD02197-02-5

1 services required to provide the copy, the costs of which the agency may
2 recover pursuant to paragraph (c) of subdivision one of section eighty-
3 seven of this article.

4 An agency may require a person requesting lists of names and addresses
5 to provide a written certification that such person will not use such
6 lists of names and addresses for solicitation or fund-raising purposes
7 and will not sell, give or otherwise make available such lists of names
8 and addresses to any other person for the purpose of allowing that
9 person to use such lists of names and addresses for solicitation or
10 fund-raising purposes. If an agency determines to grant a request in
11 whole or in part, and if circumstances prevent disclosure to the person
12 requesting the record or records within twenty business days from the
13 date of the acknowledgement of the receipt of the request, the agency
14 shall state, in writing, both the reason for the inability to grant the
15 request within twenty business days and a date certain within a reason-
16 able period, depending on the circumstances, when the request will be
17 granted in whole or in part.

18 Upon payment of, or offer to pay, the fee prescribed therefor, the
19 entity shall provide a copy of such record and certify to the correct-
20 ness of such copy if so requested, or as the case may be, shall certify
21 that it does not have possession of such record or that such record
22 cannot be found after diligent search.

23 Nothing in this article shall be construed to require any entity to
24 prepare any record not possessed or maintained by such entity except the
25 records specified in subdivision three of section eighty-seven and
26 subdivision three of section eighty-eight of this article. When an agen-
27 cy has the ability to retrieve or extract a record or data maintained in
28 a computer storage system with reasonable effort, it shall be required
29 to do so. When doing so requires less employee time than engaging in
30 manual retrieval or redactions from non-electronic records, the agency
31 shall be required to retrieve or extract such record or data electron-
32 ically. Any programming necessary to retrieve a record maintained in a
33 computer storage system and to transfer that record to the medium
34 requested by a person or to allow the transferred record to be read or
35 printed shall not be deemed to be the preparation or creation of a new
36 record.

37 (b) All entities shall, provided such entity has reasonable means
38 available, accept requests for records submitted in the form of elec-
39 tronic mail and shall respond to such requests by electronic mail, using
40 forms, to the extent practicable, consistent with the form or forms
41 developed by the committee on open government pursuant to subdivision
42 one of this section and provided that the written requests do not seek a
43 response in some other form.

44 (c) Each state agency, as defined in subdivision five of this section,
45 that maintains a website shall ensure its website provides for the
46 online submission of a request for records pursuant to this article.

47 § 2. Section 89 of the public officers law is amended by adding a new
48 subdivision 3-a to read as follows:

49 3-a. (a) Notwithstanding anything to the contrary in subdivision three
50 of this section, agencies must make records available to the person
51 requesting them within the timeframes below if such agency has deter-
52 mined to grant a request in whole or in part:

53 (i) within one hundred eighty days for requests made prior to December
54 thirty-first, two thousand twenty-six;

1 (ii) within ninety days for requests made between January first, two
2 thousand twenty-seven, and December thirty-first, two thousand twenty-
3 seven; or

4 (iii) within sixty days for requests made on or after January first,
5 two thousand twenty-eight.

6 (b) If an agency determines that records cannot be made available
7 within the relevant timeframe, such agency may instead make the records
8 available as soon as possible if one or more of these conditions apply:

9 (i) federal law or regulation prevents the agency from reviewing or
10 providing responsive records within the relevant timeframe;

11 (ii) agency employees are unable to safely access responsive records;
12 or

13 (iii) responsive records are so voluminous that the agency could not
14 reasonably review such records within the relevant timeframe.

15 (c) If the agency makes such determination, it shall notify the person
16 who made the request in writing. Such notification shall explain in
17 detail why the agency is unable to provide the records within the
18 required timeframe and what efforts are being undertaken to make the
19 records available as soon as possible. The agency shall also provide the
20 person who made the request monthly updates on progress. The agency
21 shall also notify the committee on open government in writing. The
22 notifications to both the requestor and the committee shall be signed by
23 the agency's commissioner.

24 § 3. This act shall take effect January 1, 2026.