

Effective 5/3/2023

63G-2-201 Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to record request.

- (1)
 - (a) Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.
 - (b) A right under Subsection (1)(a) does not apply with respect to a record:
 - (i) a copy of which the governmental entity has already provided to the person;
 - (ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection (7)(a)(v); or
 - (iii)
 - (A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;
 - (B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and
 - (C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.
- (2) A record is public unless otherwise expressly provided by statute.
- (3) The following records are not public:
 - (a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and
 - (b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.
- (4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.
- (5)
 - (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.
 - (b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:
 - (i) there is no interest in restricting access to the record; or
 - (ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.
 - (c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:
 - (i) the head of the governmental entity, or a designee, determines that the disclosure:
 - (A) is mutually beneficial to:
 - (I) the subject of the record;
 - (II) the governmental entity; and
 - (III) the public; and
 - (B) serves a public purpose related to:
 - (I) public safety; or
 - (II) consumer protection; and

- (ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.
- (6) A governmental entity shall provide a person with a certified copy of a record if:
 - (a) the person requesting the record has a right to inspect it;
 - (b) the person identifies the record with reasonable specificity; and
 - (c) the person pays the lawful fees.
- (7)
 - (a) In response to a request, a governmental entity is not required to:
 - (i) create a record;
 - (ii) compile, format, manipulate, package, summarize, or tailor information;
 - (iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;
 - (iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person;
 - (v) fill a person's records request if:
 - (A) the record requested is:
 - (I) publicly accessible online; or
 - (II) included in a public publication or product produced by the governmental entity receiving the request; and
 - (B) the governmental entity:
 - (I) specifies to the person requesting the record where the record is accessible online; or
 - (II) provides the person requesting the record with the public publication or product and specifies where the record can be found in the public publication or product; or
 - (vi) fulfill a person's records request if:
 - (A) the person has been determined under Section 63G-2-209 to be a vexatious requester;
 - (B) the State Records Committee order determining the person to be a vexatious requester provides that the governmental entity is not required to fulfill a request from the person for a period of time; and
 - (C) the period of time described in Subsection (7)(a)(vi)(B) has not expired.
 - (b) A governmental entity shall conduct a reasonable search for a requested record.
- (8)
 - (a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a format, medium, or program not currently maintained by the governmental entity.
 - (b) In determining whether to fulfill a request described in Subsection (8)(a), a governmental entity may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities.
 - (c) A governmental entity may require a person who makes a request under Subsection (8)
 - (a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record as requested.
- (9)
 - (a) Notwithstanding any other provision of this chapter, and subject to Subsection (9)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is confined in a jail or other correctional facility following the individual's conviction.
 - (b) Subsection (9)(a) does not apply to:

- (i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection (9)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or
 - (ii) a record request that is submitted by an attorney of an individual described in Subsection (9)(a).
- (10)
 - (a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:
 - (i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and
 - (ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.
 - (b) If the requirements of Subsection (10)(a) are met, the governmental entity may:
 - (i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or
 - (ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.
- (11)
 - (a) A governmental entity that owns an intellectual property right and that offers the intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.
 - (b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.
- (12) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.
- (13) Subject to the requirements of Subsection (7), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:
 - (a) the person making the request requests or states a preference for an electronic copy;
 - (b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and
 - (c) the electronic copy of the record:
 - (i) does not disclose other records that are exempt from disclosure; or
 - (ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.
- (14) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:
 - (a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and
 - (b) any public interests served by disclosure.

Amended by Chapter 173, 2023 General Session
Amended by Chapter 516, 2023 General Session