

ARIZONA BOARD OF EXECUTIVE CLEMENCY

Board Policy #116

Policy Title: PUBLIC RECORDS REQUEST	Effective Date: July 06, 2017	Policy #116
	Supersedes: April 15, 2015 & Administrative Policy #300	

PURPOSE:

The purpose of this policy and procedure is to establish guidelines for promptly allowing the public access for review and/or purchase of agency public documents.

AUTHORITY:

- A.R.S. §12-304 Exempt of state, county, city, town or political subdivision of a county; fees
- A.R.S. § 13-4425 Inspection of presentence report
- A.R.S. § 13-4411 Parole or discharge; conditions of parole; release under supervision of state department of corrections; notice of hearing; exceptions; drug testing costs
- A.R.S. § 35-131 Accounting system; reports; notice of deficiency; forms
- A.R.S. § 35-193 Revolving Funds
- A.R.S. §38-413 Charging Excessive fees; classification
- A.R.S. § 39-101 Permanent Public Records
- A.R.S. § 39-121 Inspection of Public Records
- A.R.S. § 39-121.01 Copies; printouts or photographs; statement of purpose; commercial purpose as abuse of public record; determination by governor; civil penalty; definition
- A.R.S. § 39-121.02 Action upon denial of access/ expenses and attorney fees; damages
- A.R.S. § 39-121.03 Request for Copies, printouts or photographs
- A.R.S. § 39-122 Free searches for and copies of public records to be used in claims against United States; liability for noncompliance
- A.R.S. § 39-127 Free copies of police reports and transcripts for crime victims; definition
- A.R.S. § 41-619.54 Confidentiality of criminal record and central registry information; exception; reporting
- A.R.S. § 41-1750 Central state repository; department of public safety; duties; funds; accounts; definitions
- DOA R2-5A-105 Personnel Records; additional statutory authority is cited within the procedure.

PROCEDURE:

116.01 Public Records

1.1 As a public entity, all Board records are public and may be subject to disclosure.

1.2 Board records that fall into the following category are considered confidential and shall not be disclosed to the general public:

- a. Department of Correction master file records which reveal the identity of a confidential informant; endanger the life or physical safety of a person; or jeopardize an ongoing criminal investigation.
- b. Information concerning a victim or the victim's immediate family.
- c. Patient records including clinical reports; medical reports; laboratory statements and reports; any file, file, record or report or oral statement relating to diagnostic findings and treatment of patients, or any information from which a patient or patient's family might be identified.
- d. Confidential relations and communications between a psychologist and client.
- e. Minutes of executive sessions.
- f. Where the countervailing interests of confidentiality, privacy or the best interests of the State should be appropriately invoked to prevent disclosure.
- g. Criminal History Record Information pursuant to Rule 123 of the Supreme Court, public access to the Judicial Records of the State of Arizona, section (b)(5) and (d)(2)(a) and (b).
- h. Sealed Presentence Reports pursuant to Rule 123 of the Supreme Court.
- i. Personnel files - Disclosure of information contained in an employee's personnel file shall be limited to the following: name of employee; date of employment; current and previous class titles and dates received; name and location of current and previous agencies to which the employee has been assigned; current and previous salaries and dates of each change; name of employee's current or last known supervisor.

116.02 Responding to Requests for Information/Public Records

2.1 All persons wishing to review or obtain any public record must submit to the Board a completed Public Records Request form.

2.1.1 The form shall be made available on the Board's website.

2.2 Requests made in person or by mail will be honored. Requests made by telephone, must be followed by the request in writing and will be honored unless there exists a concern as to the identity of the person/entity making the request. Requests filed via e-mail will be honored provided the on-line request form is completed and returned.

2.3 Public information requests will be completed within 10 working days.

2.3.1 Requests for large volumes of information that may exceed the designated time frame will be notified in writing that the request is extensive and be provided an estimated completion date.

2.4 Any request to review an agency record, will be conducted on site in the office of AZBOEC.

2.4.1 The appropriate Public Records Request forms must be completed in advance even though the request is for review purposes.

116.03 Processing and Records Redaction

3.1 Upon receipt of the form, the Board's administrative staff shall review the request and obtain the requested information.

3.1.1 The administrative staff shall determine if charges are applicable and the total amount to be collected based on the established fee schedule.

3.2 If fees are to be collected, the Board's administrative staff will determine the amount of fees to be charged. The staff person will complete the letter notifying the requestor of cost and submit to the Executive Director for signature.

3.3 All documents will be redacted pursuant to A.R.S. § 39-121.01.

3.3.1 Scanned documents are to be redacted using the designated software and "saved" alphabetically for future requests if needed. Redacted documents shall be printed rather than sent electronically to avoid document distortion.

3.4 Employees shall not discard, dispose of, or otherwise destroy, any duplicate copies of records or documents without redacting the information containing an individual's first and last name, or first initial and last name in combination with a complete:

- a. Social Security Number
- b. Credit Card, charge card or debit card
- c. Driver's License Number or non-operating identification number
- d. Savings, checking or similar type account number

3.5 The Public Records Request form and records for review or purchase will be scanned and uploaded to the designated Board's location.

3.6 The Board's administrative staff shall provide the request form and records to the Executive Director for approval prior to release.

3.7 The original public records request form shall be filed in the Board's designated location. A copy of any request related to an inmate, shall be placed in the inmate file.

116.04 Fees

4.1 For documents, information, or audio, the following fee schedule is as established:

- a. Twenty-five cents per copy of a written document or photograph;
- b. \$5.00 for a copy of an audio disc; and
- c. Applicable postage, if any.

4.1.1 Fully redacted pages will not be subject to fees with the exception of the first page which identifies the subject matter.

4.1.2 A.R.S. §38-413 outlines legal action that may be taken against an employee who overcharges for copying costs.

4.1.3 Requests for any refunds must be approved by the Executive Director.

4.1.4 A victim as defined by Arizona Constitution Article 2 Section 2.1 12C will not be charged for public records.

116.05 Fee Collection, Storage and Transfer

5.1 Requests for Board records that fall into one of the following categories are exempt from fees:

- a. The general public for claims against the United States, pursuant to ARS §39-122;
- b. Any criminal justice agency engaged in the prosecution or defense of a Department of Corrections inmate pursuant to ARS §31-227;
- c. The Arizona Attorney General's Office in its capacity as a legal representative of the Board;
- d. The Office of the Governor;
- e. Direct victim of the crime(s) pursuant to ARS §39-127;

5.2 There is no charge for a review of public records. A public records request form should still be completed prior to review of the records and all public records are subject to redaction.

5.3 When the records are ready for review or release, the requestor shall be notified.

5.3.1 The records may be transmitted to the requestor in person or via mail.

5.5 Prior to release, applicable payment will be collected in exact cash or check only, pursuant to A.R.S. § 35-131, § 35-193.

5.6 Collected fees are to be recorded in the Board's Public Records Request Ledger. The ledgers information shall include but not limited to:

- a. date of request;
- b. the name of requestor;
- c. name of inmate and/or subject matter information;
- d. the number of disks and or document pages;
- e. the amount of fees collected and form of payment;
- f. request completion date, and
- g. form of payment and amount.

5.7 The collected fees shall be maintained within the Board's administrative offices in a locked cash box until ADOA's Central Services Bureau (CSB) collects the funds or the Board staff provide delivery. The Board shall make transfer funds to CSB at least once a month.

5.8 All transfers to ADOA's CSB will be documented in the Public Records Request Ledger and shall include CSB's deposit number.

5.9 The Board members may review its fee schedule within thirty days before or after the beginning of a new fiscal year.

116.06 Retention

6.1 Public Records Requests shall be retained one calendar year after the date of request. Requests shall be held within the office.

6.1.1. After the required year of retention, the requests shall be destroyed.

IMPLEMENTATION:

This policy was adopted by the Arizona Board of Executive Clemency in accordance with law.