Freedom of Information
State Litigation and Legislation Update

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Prepared by

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Freedom of Information

Litigation and Legislation Update

I. Introduction

The following is an overview of action in state legislatures and courts around the country involving public access issues since the last COGEL conference in December 2024. The report is not an all-inclusive study. It should, however, provide a picture of where states stand on issues of government transparency. This year's report features court decisions issued, and legislation enacted, through October 2025.

The cases and legislation referenced in this report were compiled using Westlaw.

Attorneys Danielle McGee, Jonathan McCann, Nicholas Smarra, and Paul Arce, counsel to the Connecticut Freedom of Information Commission, compiled and edited this year's report.

Special thanks to Paula Pearlman and Colleen Murphy at the Connecticut Freedom of Information Commission; and our open government colleagues who shared recent court decisions and new legislation from their respective states.

II. What is a "Public Record"? What is a "Public Agency"?

Freedom of Information laws generally provide access to "public records" filed with or kept by a "public agency." Below are summaries of court decisions addressing whether and to what extent certain entities, and documents filed with or kept by a public agency, are subject to such laws.

- ***Litigation.***

  - ***Florida***

    Florida Citizens' Alliance, Inc. v. School Board of Indian River County
    398 So. 3d 1005 (Dec. 18, 2024)

    District Court of Appeal of Florida, Fourth District

    The court held that a textbook committee was subject to Florida's Sunshine Law, but that a library committee was not subject to the Sunshine Law.

    Florida Citizens' Alliance alleged that the textbook and library committees of the School Board of Indian River County ("School Board") violated the Sunshine Law. The lower court entered judgment in favor of the School Board on both claims.

    With respect to the textbook committee, the appellate court reversed, concluding that the committee had delegated decision-making authority and therefore was subject to the Sunshine Law. The textbook committee was formed pursuant to board policy, which empowered the Superintendent to establish "instructional materials review committees." However, the textbook committee submitted the textbooks it recommended for the school board's review and approval. The court noted that the textbook committee evaluated and ranked textbooks for the School Board, which helped to "crystalize" the board's decision-making, evidencing the delegation of authority.

    In contrast, the library committee merely reviewed books and submitted the results of its review to the School Board, which retained full decision-making authority. Accordingly, the court found that the library committee was not a public "board or commission" subject to the Sunshine Law.

  - ***Illinois***

    McBroom v. Logan County Sheriff's Office
    2024 Ill. App. (4th) 240377-U. (November 22, 2024)

    Appellate Court of Illinois, Fourth District

    The Appellate Court of Illinois affirmed dismissal of a requestor's Freedom of Information Act ("FOIA") complaint, finding that most of the information sought was not a "public record" maintained by a "public body."

A requestor, who at the time was a pretrial detainee, alleged that the Logan County Sheriff's Office ("Sheriff's Office") violated FOIA by failing to comply with his "request for preservation" of records related to nutritional information regarding food served at the jail. The Sheriff's Office provided menus, but the requestor was not satisfied and alleged the response was insufficient.

The trial court ruled that the requestor did not seek "public records" and instead sought the preservation and preparation of data, which is not required by FOIA. The requestor appealed.

The appeals court disagreed with the district court that the request was not a request for public records. The court explained, "[g]iven that FOIA must be liberally construed to achieve its goal of providing the public with easy access to government information and FOIA's prohibition of requiring a specific form for the request, we find the form of plaintiff's request was sufficient. To hold otherwise, especially when defendant already interpreted the request as one under FOIA, would defeat the purpose and liberal construction of FOIA."

However, the appeals court agreed with the trial court that the Sheriff's Office otherwise complied with the request by providing all responsive records. The Sherriff's Office was not required to create records that did not exist.

- ***Legislation.***

  - ***Georgia***

    2025 Georgia Laws Act 276 (S.B. 12), An Act . . . relating to the inspection of public records, so as to revise provisions related to public records in the possession of private persons or entities. . .

    This Act clarifies that all requests to inspect or copy public records must be made to the "custodian" of the records. A custodian is defined as "the agency that has charge, custody, care, and control over a public record or an employee of such agency who is designated as the custodian of such agency's records." This Act further clarifies that in complying with a request for public records the custodian is required to retrieve public records maintained or received by a private person or entity in the performance of a service of function for or on behalf of an agency or transferred thereto for future governmental use. Such private persons or entities are required to produce such records upon request to the custodian provided that the request is made within the prescribed statutory retention period or a period of time as defined in an agreement between the agency and the private person or entity (whichever is later). Finally, this Act provides that a custodian of records is not obligated to retrieve the public records held by another agency or another public entity.

- ***Ohio***

2025 Ohio Laws File 14, Appropriations (OH ST 101.30)

This Act exempts from disclosure legislative documents arising out of the confidential relationship that Legislative staff maintain with each member of the general assembly, and with each member of the general assembly staff, with respect to communications between the members of the general assembly or general assembly staff and legislative staff. Any legislative document not arising from such a confidential relationship is not a public record for purposes of the Public Records Act during the general assembly session in which it was created. Upon final adjournment of such session, the legislative document is thereafter public record for purposes of the Public Records Act.

2025 Ohio Laws File 14, Appropriations (OH ST 122.636)

Under this Act, all applications by a county, township, or municipal corporation located within a residential economic development district for grants related to such development projects and the scoring metrics used by the department of development in awarding such grants are public records under the Public Records Act.

2025 Ohio Laws File 14, Appropriations (OH ST 149.011)

This Act excludes from the definition of "Records" personal notes or any document, device, or item, regardless of physical form or whether an assistive device or application was used, of a public official, or of the official's attorney, employee, or agent, that is used, maintained, and accessed solely by the individual who creates it or causes its creation.

2025 Ohio Laws File 14, Appropriations (OH ST 149.43)

This Act excludes from the definition of "public record" images and data captured by an automated license plate recognition system that are maintained in a law enforcement database, attorney work product records, any entry on the public calendar of an elected official that is for a date that is after the date the record is requested, and records pertaining to American Indian human burial sites. It also clarifies that trial preparation records are not public records *until* the conclusion of all appeals, appeal filing deadlines, and/or each agency, office, or official responsible for the matter has decided not to proceed with the matter. Similarly, the Act adds that information assembled by law enforcement officials in connection with a probable or pending criminal or civil proceeding, with the exception of routine incident reports, is not public record *until* the conclusion of all appeals, appeal filing deadlines, and/or each agency, office, or official responsible for the matter has decided not to proceed with the matter.

III. Access to Public Meetings

Public access to meetings of governmental bodies is essential to the preservation of a democratic society. Open meeting laws help to protect transparency in government and preserve the public's right to access such meetings, with exceptions (e.g., executive sessions). Below are some examples of situations where various courts and legislatures addressed the public's right to access public meetings.

- ***Litigation.***

  - ***Arkansas***

    Washington County v. Coger
    2025 Ark. App. 145 (March 5, 2025)

    The Court of Appeals of Arkansas, Division II

    The Arkansas Court of Appeals held that Washington County, AK (the "County") violated the open meeting requirements of the Freedom of Information ("FOI") Act when it failed to provide the public with access to a meeting of a county board subcommittee.

    The County established a Criminal Justice Coordinating Board ("CJC"). The CJC has three subcommittees, including a Pretrial Services Subcommittee. On February 7, 2023, the Pretrial Services Subcommittee held a meeting that was not open to the public in person. Minutes before the meeting began, the Zoom link malfunctioned, rendering participants unable to join. Members of the public requested that the meeting be rescheduled, but the meeting proceeded as scheduled and included a discussion of the possibility of creating a new position for a public defender in the jail.

    Coger filed a complaint, requesting that the court find that the County violated the open-meeting provisions of the FOI Act. The lower and appellate courts agreed that the County violated the FOI Act, concluding that it unambiguously applies to counties and their boards.

  - ***Iowa***

    Teig v. Loeffler
    19 N.W.3d 712 (Jan. 9, 2025), rev'd 2025 WL 3280925 (December 4, 2025)

    Court of Appeals of Iowa

    The Court of Appeals reversed the decision of a district court with respect to its interpretation of the "open meetings" law and held that a "closed session" should have been reopened to the public upon the assessment of the City Council of Cedar Rapids ("Council") that "no needless and irreparable injury would occur to the job applicant during the interview."

On April 29, 2021, the Council held an interview with a candidate for the position of city clerk. The candidate requested that her interview be conducted in a closed session. Following a motion and unanimous vote, the closed session commenced. Preliminary matters related to the closed session were discussed by the council, and the candidate was connected to the meeting. The Council made no inquiry into why the candidate requested the closed session. Her interview was conducted, and she disconnected from the meeting. The Council then deliberated about her candidacy and the closed session ended. The open session was reconvened, and thereafter the meeting concluded. The candidate's hiring was formally approved at a later meeting as part of a consent agenda.

Resident Robert Teig sued members of the Council, claiming that they violated Iowa's open meeting statute when they closed the job interview to the public. The district court dismissed Teig's complaint.

The court of appeals reversed the district court's dismissal, finding the closed session improper because the council failed to establish a reason for closing the session. Under Iowa's open meetings laws, any "governmental body" must conduct its meetings in open session, unless a "closed session" is expressly permitted. In order to convene in "closed session," a vote of two-thirds of the members of the governmental body or all the members present must vote, in open session, to hold a closed session. The vote of each member along with the statutory provision authorizing the closed session must be announced at the open session and entered into the meeting's minutes. Closed session is permitted "to evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when [(1)] necessary to prevent needless and irreparable injury to that individual's reputation and [(2)] that individual requests a closed session."

The sole issue before the court was whether the closed session was "necessary to prevent needless and irreparable injury to [the candidate's] reputation." The court found it troublesome that the Council failed to "ask any questions as to why the request was necessary." The court explained, "[t]here was a consensus in the Council's testimony that the interview would be closed upon a request, none of them knew of any specific, negative information that would come up during the interview, and no negative information was ultimately revealed during the interview. And while it is difficult to ascertain what exactly would come up during an interview, such is the case in every interview. Something more than mere possibility is required—otherwise every interview could be kept closed upon request."

The court, therefore, concluded that the Council violated the open meetings laws when, upon closing the session, it failed to even attempt to ascertain any specific, damaging information that would justify continuing the interview outside the public's view.

Supreme Court of Iowa

Reversed the decision of the Court of Appeals, instead agreeing with the district court that a "governmental body may close a job interview based on the interviewees request

'an its members' own concerns about what might come up in the meeting.' The governmental body need not have specific information about a reputational threat before it."

Specifically, the Supreme Court noted the phrase "necessary to prevent" suggested that the statute was prophylactic and, therefore, "the relevant inquiry should not be whether harmful information came up during the interview, but whether Teig has an alternative, workable approach that would have ensured that no harm would befall [the candidate's] reputation." The Court further noted that the statute still requires the closed session be for the purpose of protecting an individual's reputation and that Teig did not allege the session was closed in bad faith. Rather, the Court highlighted that "the city council members simply relied on their common experience that a closed session is needed to protect against harm to an individual's reputation when the individual requests a closed session and the give-and-take of the interview cannot be predicted."

- ***Montana***

Choteau Acantha Publishing, Inc. v. Gianforte
421 Mont. 345 (April 22, 2025)

Montana Supreme Court

The Supreme Court held that the chair of the Ninth Judicial District Advisory Council violated the state's open meeting law when it closed its interviews of judicial applicants and subsequent deliberations from the public for privacy reasons.

Montana's governor appointed an Advisory Council ("Council") to assist in the appointment of a judge. The Council convened and interviewed two applicants. Both candidates asserted that their answers would implicate constitutionally protected privacy interests and they asserted their privacy rights. Thereafter, the Council chair closed the meeting to the public for the duration of the interviews and the subsequent deliberations. The Council subsequently recommended both applicants to the Governor, and the Governor ultimately appointed one of the candidates.

Choteau Acantha Publishing, Inc., sought a declaratory ruling that there was no lawful basis for closing the meeting. The district court concluded that the Chair's decision to close the entirety of the Council's meeting violated the open meeting law. The Council appealed.

Under Montana law, public disclosure is not required in cases where "the demand for individual privacy clearly exceeds the public's right to know." The procedure for the closure of an otherwise open meeting in consideration of these competing interests is as follows: "The presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure." The statute authorizes the presiding officer to close a meeting, but subject to statutory parameters. "First, the presiding officer must

determine, in real time, whether closure of the meeting is proper based on information then available about the substance of the meeting. While the initial decision to close a meeting does not necessarily require the presiding officer perform the formal legal analysis and balancing of interests required of reviewing courts, the law requires something more than cursory reference to privacy rights and mere recitation of applicable constitutional or statutory language… Second, closure of the meeting must be limited to 'the time the discussion relates to a matter of individual privacy.'"

In this case, the Chair closed the Council meeting before any discussions about the applicants' qualifications commenced, and the meeting remained closed for the duration of the interviews and Council deliberations. Rather than allow discussion to proceed publicly until an issue implicating privacy arose, and then "articulat[ing] a rationale for closure that is sufficiently descriptive to afford reasonable notice to the public of the legal and factual basis for closure without disclosing private information," the Chair relied solely on the applicants' assertions of their privacy rights to preemptively close the meeting at its beginning, thereby closing the substantive portions of the meeting in their entirety.

The Court concluded that the "decision to close the meeting in this manner was thus overbroad and in violation" of the open meeting law.

- ***North Carolina***

NC Citizens for Transparent Government, Inc. v. Village of Pinehurst
910 S.E.2d 288 (December 3, 2024)

Court of Appeals of North Carolina

The Court of Appeals of North Carolina held, in a case of first impression, that email exchanges do not constitute a meeting under the state's Open Meetings Law.

Village Council had discussed censuring plaintiff Kevin Drumm for conduct that potentially violated the Village's ethics policy. The Village Council engaged in a series of emails in between meetings that eventually included a draft motion for censure. Drumm was never censured but he sued for violation of the Open Meetings Law. The trial court granted the defendant's motion for judgment on the pleadings, finding the emails are not subject to the Open Meetings Law. Drumm appealed.

The Court of Appeals affirmed, concluding that the communications did not constitute a meeting because it took place "hours or days apart" and therefore did not constitute "simultaneous communication." In addition, most of the emails were not between a majority of the Village Council members.

- ***Legislation.***

  - ***Arkansas***

    2025 Arkansas Laws Act 505, An Act to Amend… Provisions of the Freedom of Information Act of 1967 Concerning Public Meetings; and for Other Purposes

    This Act makes several significant changes to the state's public meeting requirements, including redefining "public meeting," revising notice rules, expanding the permissible uses of executive session, and establishing detailed standards for remote attendance.

    A "public meeting" is now defined as the formal gathering of a governing body, in person or remotely, and expressly excludes (i) discussions held solely to settle a cause of action within a court-ordered ADR process and (ii) meetings of the Child Maltreatment Investigations Oversight Committee.

    The Act requires at least three days' notice for regular meetings and at least two hours' notice for emergency or special meetings, with notices and current agendas posted online when the entity maintains a website or social media page. Public meetings—other than executive sessions—must be recorded with audio at minimum and kept for one year and must allow the public to hear all meaningful discussion and deliberation.

    The Act expands the use of executive-session to include: (i) discussions of cybersecurity attacks or breaches; (ii) preparation of licensure examination materials; and (iii) matters relating to the security of public water systems or municipally owned utility systems. Previously, only certain personnel matters were permitted to be discussed in executive session.

    Generally, the Act requires members of a governing body to be physically present to count for quorum purposes or to vote. Except for municipalities, counties, and public school districts, other governing bodies may adopt a policy allowing members to attend remotely; public school districts remain subject to the separate rules for remote meetings outlined in Ark. Code § 6-13-619. All governing bodies may meet remotely whenever the Governor declares a disaster emergency. When one or more members attend remotely, the governing body must be able to verify the member's identity, ensure the public and other members can hear and understand the remote participant and their vote, and ensure the remote participant can hear the meeting and public comment. If remote participation is permitted, the public must be able to attend through the same means, and notice must reflect this.

    Finally, the Act prohibits participation in a "poll" intended to determine how a member will vote or whether they support or oppose proposed action and bars any deliberative communication between members outside a public meeting. Limited exceptions apply for ministerial acts and the sharing of background or non-decisional information. Informal meetings involving deliberation or the exercise of governing authority are also prohibited under the Act, and courts may invalidate actions taken in violation of these provisions.

- ***Kansas***

  2025 Kansas Laws Ch. 89, An Act Concerning Open Records and Open Meetings; Relating to the Open Records Act…

  This Act provides that subcommittees and other subordinate groups created by a public body or agency are subject to the requirements of the state's Open Meetings Law. The Act further clarifies that a private entity is considered a subordinate group of a legislative or administrative body only if the private entity is under the direct or indirect control of that body or of a political or taxing subdivision.

  Finally, the Act provides that when a public body or agency voluntarily elects to livestream its meeting on television, the internet, or other media, it must ensure that the livestream allows the public to observe all aspects of the open meeting. However, an unintentional technological failure or a disruption caused by the provider of the livestreaming service does not constitute a violation of the Open Meetings Law.

- ***New Hampshire***

  2025 New Hampshire Laws Ch. 112, An Act Requiring That a Public Body's Meeting Minutes Include Start and End Times of the Meeting and the Printed Name of the Recording Secretary

  This Act amends the existing open meeting requirements to require that all minutes of public meetings (including nonpublic sessions) include the meeting start and end times as well as the name of the person who produced the minutes.

- ***South Carolina***

  2025 South Carolina Laws Act 28, An Act… To Promote Public Access to School Board Meetings by Requiring School Boards to Adopt and Implement Policies that Provide Livestream or Alternate Electronic Means Transmission of Such Meetings

  This Act requires all public school governing bodies—including charter and special schools—to ensure that their meetings subject to the Freedom of Information Act are open and accessible to the public through real-time livestream video and audio, except during lawful executive sessions. If livestreaming fails despite reasonable efforts, the body must post a full audio-video recording to its website within seven days. The State Board of Education must create and update a model livestream policy outlining best practices, requirements for posting recordings within two business days, guidance for developing livestream capacity, public-notification expectations, penalties for noncompliance, and procedures allowing limited-broadband districts to request up to twelve additional months to comply. Local governing bodies must adopt their own policies based on the model within three months of its issuance (and must update them within three months of any revisions), doing so only at a successfully livestreamed meeting and without restricting public in-person attendance. Policies must be submitted to the State Superintendent for approval within thirty days. The Act also provides state

funding for districts lacking livestream capabilities as of the 2024–2025 school year and requires full implementation by January 1, 2026.

- ***Vermont***

  2025 Vermont Laws No. 51 (S. 59), An Act relating to amendments to Vermont's Open Meeting Law.

  This Act amends several provisions of Vermont's Open Meeting Law. It requires State and local non-advisory public bodies to record their meetings and to post those recordings for at least thirty days after approval of the minutes, while clarifying that site inspections and field visits are exempt from this requirement. The Act also requires meeting agendas to contain sufficient detail about the matters to be discussed, including identifying any proposed executive session and the nature of the business to be considered in that session. Additionally, the Act expands the permissible grounds for entering executive session to include cybersecurity or emergency-response measures, and to allow State public bodies to consider confidential business information related to interest rates for publicly financed loans. Finally, the Act amends the disorderly-conduct statute to clarify that a person disturbs a lawful assembly or meeting—including a meeting of a public body—when the person's conduct substantially impairs the effective conduct of the meeting, such as by causing it to end prematurely or by repeatedly disrupting it after being asked to desist.

IV. Access to Public Records

A. Privacy Exemptions

Below are summaries of cases and legislation concerning exemptions, the purpose of which is to protect against the disclosure of information that could invade the privacy of individuals.

- ***Litigation.***

  - ***California***

    Banuelos v. Superior Court of Los Angeles County
    106 Ca.App.5th 542 (October 25, 2024)

    Court of Appeal, Second District, Division 8, California

    An investigating officer involved in a homicide case had received a sustained finding of dishonesty. Such records, under the state's penal code, were deemed "nonconfidential" and subject to public inspection.

    Counsel, to defendant Banuelos, made a Public Records Request ("PRA") for the records related to such finding. The court ordered the police department to disclose the records but issued a protective order precluding counsel from sharing the records with anyone outside of the defense team. Defendant then filed a petition for writ of mandate to vacate the protective order.

    The appellate court held that the trial court should not have issued a protective order because it did not order disclosure of any confidential information from the officer's personnel file. The court explained that, due to a legislative change in 2019, certain types of law enforcement personnel records are deemed "nonconfidential" and subject to public disclosure under the PRA. This includes records "relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury."

    The court explained that the legislature enacted this change because it "perceived California as 'one of the most secretive states in the nation in terms of openness when it comes to officer misconduct and uses of force.'" The legislature intended to "provide transparency regarding instances of an officer's use of significant force and sustained findings of officer misconduct by allowing public access to officer-related records maintained either by law enforcement employers or by any state or local agency with independent law enforcement oversight authority."

    Here, the records sought by defense counsel were limited to the police department's sustained finding of dishonesty against the officer and such records are

"nonconfidential" and subject to disclosure under the PRA. Therefore, the court should not have issued a protective order.

- ***Delaware***

  Vanella on Behalf of Delaware Call v. Duran
  No. K24A-02-002 (December 23, 2024)

  Superior Court of Delaware

  The Delaware Superior Court held that the Delaware Freedom of Information Act ("FOIA") requires disclosure of certain trooper names, ranks and salaries, but affirmed the withholding of officers' resumes, past employment history, and demographic details.

  A representative for the Delaware Call, an independent news agency, made a request for records to the Delaware State Police ("DSP"). The request sought records for the purpose of identifying, tracking and reporting on officers who were accused of misconduct, and included: (1) names of all certified law-enforcement officers, (2) their current annual salaries, (3) current employing agency and rank, (4) past employers and job titles, (5) resumes, (6) list of formerly certified officers and their status, and (7) age, sex, and race ("demographic information") of each certified officer.

  DSP denied the request in its entirety, contending, *inter alia*, that the records fall within an exception to disclosure, including the "personnel file exception," as well as a safety exception.

  The court held that DSP failed to prove that disclosure of the (1) names of all certified law-enforcement officers would create a substantial likelihood of a threat to their safety and that although their names are part of the personnel files, that alone was not a basis for denial. Furthermore, officers wear name badges in public while on duty. In reliance on a previous decision, the court found that taxpayer funded (2) salaries of public employees are subject to disclosure and ordered them produced. The court held that (3) current employer agency and rank were tied to the release of the names and DSP similarly failed to show that release would be either a safety concern or an invasion of privacy.

  DSP did not maintain (4) past employers and job titles; nor did it maintain any (6) list of formerly certified officers and their status. The court held that DSP did not have a duty to create any record.

  Finally, the court held that the (5) resumes and (7) demographic information of each certified officer was within the scope of a personnel file and release would be an invasion of privacy. The court found that as resumes typically contain home addresses, personal phone numbers and email addresses, the disclosure of such information would constitute an invasion of personal privacy and the officers' personal safety interests. The demographic information could compromise the safety of an officer serving in an

undercover capacity and producing this information could significantly compromise personal privacy and safety.

The court, therefore, ordered the release of all names, ranks and salaries of the troopers. All other requested information did not need to be produced because DSP either did not possess the information or it was deemed "nonpublic under FOIA."

- ***Virginia***

Town of South Hill v. Hawkins
82 Va. App. 801 (December 10, 2024)

Court of Appeals of Virginia

The Court of Appeals of Virginia affirmed a lower court's decision to order disclosure of records concerning former employee resignations, albeit with redactions.

A requestor sought records from the Town of South Hill ("Town") concerning former employees' resignations. The Town provided some responsive records, but withheld others, contending that such records constituted exempt "personnel information" under the Virginia Freedom of Information Act ("VFOIA").

Hawkins petitioned the trial court for a writ of mandamus to compel the Town to produce the remaining requested records. After reviewing the records at issue in camera, the trial court granted the writ as to two of the records, ordering one to be produced in its entirety and the other to be redacted and produced. However, the court determined the Town properly withheld other records under the VFOIA personnel information exemption: (i) a demand letter from a Town employee's attorney outlining the employee's discrimination complaints and the employee's position on settlement (the "Demand Letter"); (ii) an email sent from a Town employee to the mayor and town council regarding disciplinary action taken against him, which included the employee's negative performance evaluation and his responses to the allegations of deficient performance (the "Six Page Email"); and (iii) three resignation letters from Town employees, including the resignation of Bill Wilson (the "Wilson Letter").

The requestor appealed to the Supreme Court, which reversed and remanded to the trial court for reconsideration of the applicability of the "personnel information" exemption. The Court explained that "personnel information" applies to "data, facts, or statements within a public record relating to a specific government employee, which are in the possession of the entity solely because of the individual's employment relationship with the entity, and are private, but for the individual's employment with the entity," and that "data, facts, and statements are private if their disclosure would constitute an 'unwarranted invasion of personal privacy' to a reasonable person under the circumstances."

On remand, the trial court again considered the disputed records, and instead rejected most of the Town's proposed redactions, and ordered all of the previously withheld records to be produced with minimal redactions. Another appeal followed.

The Court of Appeals held that the trial court correctly ordered disclosure. With respect to the Six Page Email, the appellate court concluded that such record was properly ordered disclosed because it described events "solely relating to the employee's employment with the Town and thus is not private within the meaning of the personnel information exemption"; it pertained to an employee's performance evaluation relating solely to the performance of his public functions, and disclosure would not cause a reasonable person to feel that production of the document was an unwarranted invasion of personal privacy; a reasonable person would not believe that disclosure of an employee's explanations and response to a performance evaluation is an unwarranted invasion of personal privacy; and because communications were intentionally and voluntarily sent by the employee, a reasonable person would not believe such voluntary disclosure to be an unwarranted violation of personal privacy.

With respect to the Demand Letter, the appeals court affirmed the trial court's determination that the names and titles of other Town employees and all references to the employees' medical history could be redacted. However, the remainder of the Demand Letter did not fall within the personnel information exemption because it contained allegations of mistreatment between two Town employees and referenced events entirely related to the employees' employment with the Town. The Demand Letter was also intentionally and voluntarily sent to the Town's attorney. Therefore, a reasonable person would not find disclosure of the document to be an unwarranted invasion of personal privacy.

With respect to the Wilson Letter, the appellate court agreed that such letter should be disclosed with minimal redaction to remove employee names, references to employee relationships, and "words or phrases indicative of Town employees' medical conditions." Disclosure of the remainder of the Wilson Letter would not reveal any personal information that a reasonable person under the circumstances would find to be an unwarranted invasion of personal privacy. In addition, the performance evaluation was voluntarily disclosed when the employee included it as part of the Wilson Letter and therefore, a reasonable person under the circumstances would not find the voluntary disclosure of such document to be an unwarranted invasion of personal privacy.

- ***Legislation.***

  - ***Delaware***

    2025 Delaware Laws Ch. 142, An Act to Amend Title 10, Title 11, and Title 19 of the Delaware Code Relating to Crime Victims and Witnesses.

    This Act amends Delaware's statutory Crime Victims' Bill of Rights. Under this Act, law-enforcement agencies may not disclose the residential address, telephone number, school, or place of employment of a victim or a member of the victim's family. Likewise, a court may not compel a victim or a member of the victim's family testifying in a criminal proceeding to disclose this information. Exceptions to these protections include: (i) when the individual waives confidentiality in writing; (ii) when the

individual's residential address, school, or place of employment is the site of the crime; (iii) when disclosure is necessary to alert a school that a student has been identified at the scene of a traumatic event; or (iv) when disclosure is required by law or the Rules of Criminal Procedure, necessary for law-enforcement purposes, or when a court finds that there is good cause and disclosure is necessary. The Act also extends these confidentiality rights to witnesses of crime.

B. Records Maintained by a Law Enforcement Agency or Department of Corrections

Below are summaries of court decisions and legislation concerning records maintained by a law enforcement agency or correctional facility.

- ***Litigation.***

  - ***Georgia***

    Appen Media Group, Inc. v. City of Sandy Springs
    374 Ga. App. 841 (March 13, 2025)

    Georgia Court of Appeals

    The Georgia Court of Appeals held that the trial court's grant of summary judgment to the City of Sandy Springs Police Department ("City") was premature because genuine issues of material fact remained about whether certain narrative reports prepared by police officers constituted "initial incident reports" under the Georgia Open Records Act ("ORA") and thus were disclosable.

    Appen Media, a newspaper publisher, requested incident reports and accompanying narrative reports from the Sandy Springs Police Department. Such records pertained to an incident that was under investigation at the time of the request.

    The City provided only brief, one- or two- sentence narratives in the initial "Incident/Investigation Reports," and withheld the more detailed narratives, treating them as separate "supplemental" narrative reports exempt from disclosure.

    The trial court granted summary judgment to the City, concluding that the supplemental narrative reports are exempt from disclosure under the statutory exemption for "[r]ecords of law enforcement ... in any pending investigation or prosecution of criminal or unlawful activity, *other than initial police arrest reports and initial incident reports*." Appen Media appealed.

    Under the ORA, "records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, *other than* initial police arrest reports and initial incident reports" are exempt from disclosure. The court construed the meaning of the term "initial incident reports" to mean "the first incident report completed by a law enforcement officer on a standard incident report form when beginning a criminal investigation."

    The appeals court concluded that the trial court's grant of summary judgment for the City was premature, in that genuine issues of material fact remained. "Whether a narrative report prepared at the same time as an incident report actually constitutes part of that initial incident report is a fact specific inquiry. In some cases, it may, and in some cases it may not. But we cannot say *as a matter of law* that a narrative report is not a part of the initial incident report subject…"

The matter was remanded for further proceedings.

- ***Minnesota***

Alpha News v. City of Detroit Lakes
20 N.W.3d 62 (April 7, 2025)

Court of Appeals of Minnesota

The Court of Appeals concluded that the phrase "benefit to the public," for purposes of the Minnesota Government Data Practices Act's ("MGDPA") balancing test, means a "benefit which has a helpful or useful effect on the community or people as a whole, or which otherwise promotes or enhances the well-being of the community or people as a whole," and remanded the matter to the district court for consideration of whether police body-worn and dash camera footage should be disclosed, notwithstanding the fact that it pertained to an ongoing criminal investigation involving a state senator charged with burglary.

Alpha News sought police body-warn and dash camera footage related to an ongoing criminal investigation of a sitting state senator. Such request was denied.

The MGDPA provides that data from active criminal investigations are generally "confidential or protected nonpublic," meaning the data are not available to the public. However, the MGDPA also allows a person to bring an action in the district court to request an order for the data's release. A district court is authorized to release data if it conducts a balancing test and determines that "the benefit to the person bringing the action or to the public outweighs any harm to the public, to the agency or to the person identified in the data." Alpha News commenced such an action.

The district court reviewed the footage in camera and denied the request, finding that the rights of the accused in an active criminal proceeding outweighed the benefit to the public. The court noted that "[t]his statute does not authorize the release of data the public finds 'interesting.' It requires release of data that is necessary to dispel *widespread* rumor or unrest—circumstances that are not present here."

An appeal followed on the issue of whether, in conducting the balancing test under the MGDPA, the district court misapplied the law by applying an overly restrictive interpretation of the meaning of "benefit ... to the public"?

The appeals court held that the plain meaning of a "benefit ... to the public" is "that which has a helpful or useful effect on the community or people as a whole, or that which otherwise promotes or enhances the well-being of the community or people as a whole." The court could not discern whether the district court applied this meaning of "benefit … to the public" and therefore, reversed and remanded for consideration of this standard.

- ***New Hampshire***

  Brown v. Grafton County Department of Corrections
  2025 N.H. 2 (January 10, 2025)

  Supreme Court of New Hampshire

  The Supreme Court of New Hampshire determined that a lower court erred when it failed to review video footage from the inside of a Department of Correction ("DOC") facility prior to issuing its decision to affirm the DOC's denial of a request for such video footage.

  An incarcerated person requested "[v]ideo from all kitchen or other cameras showing meal preparation from April 29, 2019," and "[v]ideo of all cameras showing mealtime in any unit in which [the requestor] was resident from April 29, 2019." The DOC denied the request "for security reasons." Regarding the request for meal preparation footage, the DOC claimed that "public release of perspective and angles from cameras would jeopardize the security of the facility." Regarding the request for mealtime footage, the DOC asserted that "public release of such video would constitute an invasion of privacy of inmates" and "release of camera perspectives would potentially threaten the security of the facility."

  The requestor then filed a complaint for declaratory and injunctive relief, seeking, among other things, a court order to compel the DOC to disclose all responsive records. The court found in favor of the DOC, reasoning that the "public interest in disclosing the [DOC] footage is, at best, attenuated and based upon the [requestor's] subjective desire for the information" and "inmates … have a cognizable privacy interest in [deciding on] disclosure that outweighs such a speculative public interest." The court further explained that "disclosure of the ... footage will not tell the public anything directly about what the [DOC] is 'up to' rather it will subject the inmates … to an unnecessary invasion of privacy." The court also stated that public disclosure could "pose a clear danger to both the inmates housed at the [facility] and the law enforcement officers tasked with running the [facility]."

  The requestor appealed, arguing that the court erred when it failed to determine whether the video footage actually contained enough detail to implicate any privacy interests, or whether a redacted copy could be released.

  The Supreme Court agreed, explaining that the lower court should have examined the video footage in order to assess the privacy claim. In addition, the court noted that the record lacked sufficient evidence about what the videos depict, such as inmate or staff faces, identifying details, and the layout of the facility.

  The Supreme Court, therefore, remanded the matter to the trial court to conduct additional fact finding and review the video footage to determine if there are privacy and security concerns depicted on the video.

- ***Virginia***

  National Public Radio v. Virginia Department of Corrections
  2025 WL 375902 (February 4, 2025)

  Court of Appeals of Virginia

  The Court of Appeals affirmed a lower court decision that the Department of Correction ("DOC") was not required to disclose records pertaining to inmate executions because such records constituted records of persons imprisoned in penal institutions that relate to their imprisonment, and therefore, are not subject to the disclosure requirements of the Virginia Freedom of Information Act ("VFOIA").

  While researching in the Library of Virginia, a reporter for NPR found four recordings of Virginia inmate executions from 1987 to 1990. The reporter later requested that the DOC provide copies of "tapes, audio, and other media recorded by staff during executions" of prisoners that the DOC carried out from 1990 to 2017. The DOC denied the request, contending that the records are exempt from mandatory disclosure under the Virginia Freedom of Information Act ("VFOIA") as "records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment."

  The requestor filed a petition for a writ of mandamus, challenging the DOC decision. The court held that the records constituted "records of persons imprisoned," and therefore that it was within the DOC's discretion whether to release them. The requestor appealed.

  On appeal, the requestor argued that the records are not records "of" the imprisoned persons and therefore, the exemption claimed did not apply. The court disagreed. The court explained that "of" means "connected with," "relating to," or "about," and that the records, which were made and kept by the DOC to document each execution, are plainly records "of" imprisoned persons.

- ***Washington***

  Does 1, 2, 4 and 5 v. Seattle Police Department
  4 Wash.3d 343 (Feb. 13, 2025)

  Supreme Court of Washington

  The Washington Supreme Court, sitting en banc, denied an injunction sought by four Seattle Police Department ("SPD") officers ("officers") after determining that they were not likely to succeed on the merits of their claim that their personally identifying information was exempt from disclosure under the Public Records Act ("PRA"), or under constitutional claims.

  After learning that a few of its officers attended the January 6, 2021 "Stop the Steal" rally in Washington DC, the Seattle Police Department ("SPD") launched internal

investigations into whether any of the officers violated the department's policies and state law. Thereafter, several individuals requested records regarding the officers who attended the rally. SPD did not identify any exemption requiring redaction of any of the records sought, but notified the officers that it intended to disclose records, including the names of the officers.

The officers sought an order enjoining the SPD from disclosing their personally identifying information, contending such information is exempt from disclosure under the PRA. The request for an order was denied by the trial court. An appellate court reversed. The officers appealed.

In a PRA case, the party seeking an injunction must satisfy a two-part test: first, that the records are exempt, *and* second, that disclosure would clearly not be in the public interest and would substantially and irreparably damage a person or governmental function.

The Supreme Court concluded that the officers had not shown a likelihood of success that their personally identifying information is exempt. The "privacy in personal information" exemption is conditional; records are exempt only "to the extent that disclosure would violate their right to privacy." "A person's "right to privacy" is "invaded or violated only if disclosure of information about the person: (1) [w]ould be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public."

The Court concluded that the officers did not meet their burden because "they have not shown they have a privacy right in public records about their attendance at a highly public event (the second question)." The Court, therefore, did not consider whether disclosure would be highly offensive to a reasonable person and was not of legitimate concern to the public.

After concluding that the officers were not likely to prevail on their constitutional claim, the Court reversed the appellate court and remanded the matter to the trial court for further proceedings.

The officers filed an application for stay with the U.S. Supreme Court, which was denied. *Doe v. Seattle Police Dep't*, 145 S. Ct. 1539 (2025). In a concurring opinion, Justice Alito (joined by Justice Thomas), emphasized that the Court's denial of the application for stay "should not be read as an endorsement of the decision below or its interpretation of the First Amendment."

- ***Legislation.***

  - ***California***

    2025 Cal. Legis. Serv. Ch. 729, An Act to Amend Sections 832.7 and 13510.9 of the Penal Code, Relating to Law Enforcement

    This Act prohibits a public agency employing any peace officer from entering into an agreement that requires the agency or officer to destroy, remove, conceal, or alter records of a misconduct investigation; to halt or predetermine the outcome of such an investigation; or to otherwise restrict the disclosure of information about an allegation or investigation of misconduct. Any agreement inconsistent with this provision is not confidential and must be made available for public inspection under the California Public Records Act.

    The Act also authorizes courts, when reviewing redactions to records subject to disclosure, to consider whether a peace officer is currently operating undercover and whether the officer's duties require anonymity. Previously, agencies could redact such records only when there was a specific, articulable, and particularized reason to believe that disclosure would pose a significant danger to the physical safety of the officer or another person.

  - ***Louisiana***

    2025 La. Sess. Law Serv. Act 425, An Act…Relative to School Mapping Data…To Provide Relative to Public Records Exceptions…

    This Act requires the State Board of Elementary and Secondary Education and the state's Department of Education to provide school mapping data of all public schools to law enforcement. The Act excludes all public-school building or facility blueprints and school mapping data from the state's Public Records Law. "School mapping data" contains detailed information about site-specific building layouts (e.g. room labels, hallway names, external door or stairwell numbers and locations of hazards) and site-specific labeling that matches the school grounds (e.g., parking areas, athletic fields, and neighboring properties).

  - ***Ohio***

    2025 Ohio Laws File 14, Appropriations (OH ST 149.43)

    This Act requires that the fee be waived for a requested video upon receipt of an affidavit by the victim of a crime or the victim's legal counsel identifying that the use of the video is to investigate harm or damage that may have been captured on the video. A law enforcement agency or a prosecuting attorney's office must waive any fee for preparing a video record for inspection, or producing a copy of a video record, when the requestor of the video who is a victim who suffered loss and could seek remedy through a tort action, who reasonably asserts that the video recording relates to the act

or omission that caused the victim's harm or loss, or who is the legal counsel or insurer of the victim.

V. Other Noteworthy Litigation and Legislation

The following cases and legislation highlight other noteworthy freedom of information topics.

- ***Attorney-Client Privilege & Work Product***

  - ***Connecticut***

    2025 Conn. Legis. Serv. P.A. 25-153, An Act Concerning the Adoption of the Connecticut Uniform Collaborative Law Act

    This Act, among other things, establishes rules about the privileged nature of communications in connection with the collaborative law process, which is designed to resolve matters without intervention by a tribunal (typically in relation to family or domestic relations law). Under this Act, "collaborative law communication" is privileged (subject to specified exceptions) and, in a proceeding, a party (or a nonparty participant) may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication. Although the Act generally protects collaborative law communications from discovery and use as evidence, it expressly provides that this privilege does not apply to a collaborative law communication that is available to the public under the Freedom of Information Act.

  - ***Colorado***

    Archuleta v. Roane
    560 P.3d 399 (December 9, 2024)

    Supreme Court of Colorado

    The Colorado Supreme Court, sitting en banc, held that a custodian of records could not refuse to fulfill a Colorado Open Records Act ("CORA") request on the grounds that the requestor was in litigation with the custodian's agency.

    Roane sued the Board of County Commissioners of Archuleta County in a declaratory judgment action for violation of Colorado's open meeting law requirements. While the case was pending, Roan filed an open records request with the County Clerk seeking documents related to the County Commissioner meeting at issue in the litigation and the tape recording of a related meeting.

    The Court held that the language of the CORA does not limit the permissible reasons for records requests and custodians must produce records unless it is prohibited by rules promulgated by the Court, including the Colorado Rules of Civil Procedure. An inspection of such rules led the Court to conclude that "none of the relevant rules prohibits a CORA request during litigation." The Court concluded that if the Colorado

General Assembly intended a pending litigation exception, it would be explicitly set forth in the statute.

- ***New Mexico***

  Albuquerque Journal v. Board of Education of Albuquerque
  576 P.3d 367 (October 30, 2024)

  Court of Appeals of New Mexico

  The Court of Appeals of New Mexico held that a report prepared by a school board's attorney regarding the investigation of the resignation of the school district's superintendent was not subject to inspection under the Inspection of Public Records Act ("IPRA") on the basis of attorney-client privilege.

  The Albuquerque Journal ("Journal") sought disclosure of certain documents "related to the abrupt and premature resignation" of the then-Superintendent of the school district, and the $350,000 buyout of his contract with public funds. Among the records sought was an investigatory report prepared by the Board's attorney at its request ("Padilla Report").

  The Journal filed an enforcement action seeking production of the Padilla Report and other records. The district court concluded that, as a matter of law, the Padilla Report was not subject to disclosure under the IPRA as an attorney-client privileged communication.[1] The court relied on affidavits stating that the Board believed Padilla was providing professional legal services and her related communications would, therefore, be privileged. The district court also relied on a retention letter which stated the attorney was being hired to "provid[e] professional legal services to the Board" and that "[t]hose services include ... research and inquiry into matters of concern to the Board and consultation with the Board [p]resident and members of the Board concerning the results of [Padilla's] work."

  On appeal, the Journal challenged the court's determination that the Report was entirely exempt from disclosure under the IPRA. The court concluded that the evidence before it demonstrated that Padilla was acting as an attorney hired to provide professional legal services regarding the Board's employment of the Superintendent. Padilla was hired to provide "professional legal services" including "research and inquiry into matters of concern to the Board." The court also explained that the Board was not required to parse out non-privileged information from the report, as the Padilla Report is a confidential communication, wholly excepted from disclosure under the IPRA.

  The Supreme Court of New Mexico granted certiorari on February 25, 2025.

[1] However, the district court found that the school board committed nine separate violations of the IPRA and imposed a fine of $411,625, in statutory damages and an additional $214,911.76 in attorney fees and costs.

Energy Policy Advocates v. Balderas
560 P.3d 37 (October 15, 2024)

Court of Appeals of New Mexico

The New Mexico Court of Appeals reversed summary judgment for the Office of the Attorney General ("OAG"), finding it failed to show that withheld or redacted records were exempt from disclosure pursuant to the attorney-client privilege or the work-product doctrine.

Energy Policy Advocates ("EPA") requested to inspect common interest agreements that were entered into by the Office of the Attorney General ("OAG") with other states' offices of the attorney general, as well as correspondence and emails related to the formation of such agreements.

The OAG responded to the requests by withholding some responsive records, producing some records with all but a "privileged or confidential" stamp redacted, and producing other records with multiple lengthy redactions. The OAG contended that it denied the requests because the records constituted attorney-client communications and attorney work-product.

EPA filed an enforcement action in district court, challenging both the withholding of some records and the heavy redaction of the records provided, claiming that none of the cited IPRA exceptions supported the OAG's denial.

The OAG filed a motion for summary judgment "arguing that its blanket assertion of attorney-client privilege and/or work-product, together with its assertion of good faith, established a prima facie case justifying the denial of inspection of unidentified, withheld documents, as well as the redactions it made on the documents that were produced." The district court agreed, granting summary judgment to the OAG on all claims, without having conducted an in camera review of the records.

On appeal, the court concluded that the OAG failed to establish a prima facie case for summary judgment on either the IPRA exception for the attorney-client privilege, as extended by the common interest doctrine, or the catchall exception for attorney work-product. The court concluded that the OAG's "generalized assertion of privilege or immunity, even if the public agency asserts the privilege or immunity in good faith, is not sufficient to establish a prima facie case of compliance with IPRA supporting summary judgment." The court took issue with the OAG's assertion that it did not need to present evidence "about the nature of each withheld document or each redaction sufficient to allow [EPA] and the district court to assess the validity of its claims without an in camera review."

Because the OAG did not establish a prima facie case for application of either attorney-client privilege, as extended by the common interest doctrine to protect privileged communications disclosed to those with a shared common interest, or attorney work-product immunity, the court reversed the grant of summary judgment. The court noted

that the OAG's failure to adequately support a claim of privilege justifies a denial of the claim of privilege. However, the court exercised its discretion to remand the matter for further proceedings, directing the lower court to require a privilege log or in camera review.

- ***New York***

  New York C.L. Union v. New York State Off. of Ct. Admin.
  2025 N.Y. Slip Op. 05784 (Oct. 21, 2025)

  Court of Appeals of New York

  The Court of Appeals of New York held that the New York State Office of Court Administration ("OCA") failed to establish that the attorney-client privilege applied to records requested by the New York Civil Liberties Union ("NYCLU"), explaining that the OCA "is not entitled to a blanket exemption for all potentially responsive documents based on a sweeping invocation of attorney-client privilege" between its counsel and all Unified Court System judges.

  In 2021, an internal OCA memorandum proposing a narrow reading of a recent court decision, which was widely distributed to judges in the Unified Court System, was leaked.[2] Subsequently, NYCLU made a request for records created by the OCA and distributed within OCA and/or to judges in the Unified Court System "in which federal or state decisions, statutes, regulations, or ordinances are 'summarized, analyzed, interpreted, construed, explained, clarified, and/or applied.'" The OCA denied the request, contending, *inter alia,* that responsive documents were privileged as attorney-client communications.

  NYCLU filed a petition challenging the OCA's denial of its request. The court determined that the attorney-client privilege did not apply. An appeals court reversed. NYCLU subsequently appealed.

  The Court of Appeals rejected the OCA's claim of a "blanket attorney-client relationship with all judges" and therefore also rejected its assertion that the privilege applied to all of the records at issue without any review of such records. The court reiterated the longstanding principle that "whether a particular document is or is not protected is necessarily a fact-specific determination, most often requiring in camera review. Without having identified or produced any documents for in camera review, OCA cannot assert a blanket privilege over the entire universe of potentially responsive

[2] The court explained that in *Crawford v. Ally*, 197 A.D.3d 27 (2021), the First Department held that due process requires an evidentiary hearing prior to issuance of certain temporary orders of protection. Subsequently, a memorandum discussing that ruling, labeled "Confidential/Internal Use Only," was sent by OCA's Deputy Counsel of Criminal Justice to several Deputy Chief Administrative Judges. The memorandum later became public. In response to subsequent media inquiries concerning the memorandum, an OCA spokesperson stated that it was OCA's "normal practice" to "issue memos with context on cases that have potential significant operational impacts on the courts."

documents." The court, therefore, "decline[d] to recognize the sweeping, ex ante privilege" claimed by the OCA.

The matter was remitted, with the court explaining that if the OCA continued to assert the privilege, "the court on remittal should assess whether such documents fall within the asserted exemption, including by in camera review as necessary."

- ***Cybersecurity***

  - ***Ohio***

    2025 Ohio Laws File 14, Appropriations

    This Act requires that each political subdivision adopt a cybersecurity program that safeguards the political subdivision's data, information technology, and information technology resources to ensure availability, confidentiality, and integrity. Any records, documents, or reports related to such cybersecurity program and framework, and the reports of any cybersecurity or ransomware incident are not public records under the Public Records Act, Ohio Rev. Code § 149.43 (the "Public Records Act").

  - ***New York***

    2025 Sess. Law News of N.Y. Ch. 177, An Act to Amend the General Municipal Law and the Executive Law, In Relation to Requiring Municipal Cybersecurity Incident Reporting and Exempting Such Reports from Freedom of Information Requirements…

    This Act, in part, sets data protection standards for state agencies, including breaches of the security of information systems, data backup, information system recovery, and the secured sanitization and deletion of data. This Act also requires that state agencies create and maintain an inventory of its information systems. Such inventories are confidential and not subject to disclosure under the state's freedom of information law as "disclosure of such information would jeopardize the security of a state agency's information system and information technology assets."

- ***Discovery***

  - ***New Mexico***

    Silva v. City of Albuquerque
    No. A-1-CA-42217 (October 2, 2025)

    Court of Appeals of New Mexico

    The Court of Appeals of New Mexico held that records that were withheld based on an asserted exemption to disclosure under the Inspection of Public Records Act ("IPRA") are not subject to production in response to discovery requests.

Silva requested law-enforcement records, and such request was denied. Silva sued, and the district court ordered the records to be turned over as part of discovery-related to the litigation.

The court of appeals reversed and remanded, finding that ordering production of documents as part of discovery in an IPRA enforcement action is a remedy and not appropriate for discovery while the case is pending.

- ***Education Records***

  - ***Vermont***

    Hier v. Slate Valley Unified School District
    2025 WL 63729 (January 10, 2025)

    Supreme Court of Vermont

    The Supreme Court of Vermont reversed a lower court's order granting summary judgment in favor of a requestor who sought Rule 4500 Forms, which catalogued information about the use of restraint and seclusion in schools.

    In Vermont, schools are required to "maintain written records of each use of restraint and seclusion" ("Rule 4500 Forms"). The Rule 4500 Forms contain the following information: (a) The name, age, gender and grade of the student; (b) The date, time and duration of the restraint of seclusion; (c) Any injuries, death, or hospitalization to student or staff resulting from the use of restraint or seclusion; (d) The location where the restraint or seclusion occurred; (e) The precipitating event(s) leading up to the restraint or seclusion; (f) A list of school personnel who participated in the application, monitoring and supervision of the student while restrained or secluded; (g) The type of restraint or seclusion used; (h) The reason for the restraint or seclusion; (i) A description of all the interventions used prior to the application of the restraint or seclusion; (j) Whether the student has a behavioral intervention plan and/or individualized education plan, Section 504 plan or educational support plan; and (k) The date notification was provided to the student's parents.

    A requestor made several requests to the Slate Vally Unified School District ("School District") for disclosure of 4500 Forms filed between January and April 2021, among other records pertaining to restraint and seclusion in the district. The School District denied the request, claiming that the Rule 4500 Forms were student records and exempt from disclosure under the Public Records Act ("PRA").

    The requestor appealed the denial, contending that the Rule 4500 Forms are not student records because "they are designed to provide information about the frequency and use of restraint and seclusion practices within the school, and the names of students can be redacted to protect their privacy."

    The trial court agreed with the requestor. The court focused on the purpose of the Rule 4500 Forms, finding that such forms were "effective monitoring to implement the

State's restraint/seclusion policy" as opposed to maintaining "a record of individual student experience or performance." The court reasoned that "[t]he content sought focuses on the event and how it was handled rather than on the individual student." The court concluded that the school district was required to release the Rule 4500 Forms because "materials of public interest concerning the functioning of government" are not categorically exempt from disclosure. The court ordered the school district to disclose the Rule 4500 Forms with redaction of personally identifying information.

The requestor appealed, objecting to the order of disclosure of redacted forms; the School District also appealed the granting of summary judgment, contending that the records are categorically exempt from disclosure.

The Supreme Court held that student records are categorically exempt from disclosure, and no analysis of the redactions was necessary. The Court explained in a previous case it determined that the "student records exception" under the PRA "plainly exempts [student records]" and that the language of the exception is "broad and unqualified. Like the records at issue in the earlier case, the Rule 4500 Forms "fall squarely within the express statutory exception" and are thus categorically exempt … The Rule 4500 forms contain information related to a specific student and the details of an incident involving the use of restraint and seclusion on that individual student …."

- ***Election Records***

  - ***Arkansas***

    2025 Arkansas Laws Act 279, An Act to Amend the Law Concerning Complaints of Election Law Violations…

    The State Board of Election Commissioners ("Board") is responsible for investigating alleged violations of election and voter-registration laws, issuing findings, instituting corrective actions, and imposing sanctions. Prior to this Act, all records of the Board's inquiries, investigations, and related proceedings were exempt from disclosure under the Freedom of Information Act of 1967, until the Board closed an investigation or scheduled a hearing.

    This Act revises those provisions by exempting such records from disclosure until (1) thirty days after the final adjudication at which the Board issues its final decision, or (2) the scheduling of a public hearing before the Board. The Act also amends the Board's existing obligation to share otherwise confidential information with law-enforcement agencies, changing that duty from mandatory to permissive. Finally, the Act clarifies that election monitor reports prepared by a state election monitor are not exempt from disclosure.

- ***Utah***

  2025 Utah Laws Ch. 188, Government Records and Information Amendments

  This Act amends certain provisions of Utah's Government Records Access and Management Act (GRAMA) to prohibit government officers from disclosing (or attempting to discover) any information from a ballot cast by an "identifiable voter," as well as disclosing the following information in relation to an identifiable voter: (i) the method by which the voter voted or returned a ballot; (ii) when or where the voter voted; (iii) how or when the voter's ballot was received; (iv) whether a ballot was mailed to the voter; (v) whether the voter placed postage on a return envelope; or (vi) any information from the return envelope. The Act specifies that the disclosure of information (including voter history records) "in mass" is not prohibited. Although "in mass" is not defined in the statute, this presumably refers to aggregate or bulk data in which a specific voter is not identified.

- ***Wisconsin***

  State ex rel. Miller v. Milwaukee County Election Commission
  2025 WI App 10 (December 26, 2024)

  Wisconsin Court of Appeals

  The Wisconsin Court of Appeals upheld the circuit court's ruling dismissing claimant Miller's writ of mandamus against the Milwaukee County Election Commission ("MCEC") as insufficient as a matter of law because the request was overly broad and excessively burdensome.

  Miller requested "all original documents and records relating to the 2020 general election" that were generated in 2020 in Milwaukee County. Miller proposed "election" as a search team to aid in finding responsive documents. Miller subsequently filed a petition for writ of mandamus, asking the court to compel MCEC to release all records responsive to his request.

  MCEC produced electronic copies of hundreds of thousands of responsive documents, including approximately 435,000 absentee ballots. MCEC subsequently moved to dismiss the claimant's petition as overly broad and excessively burdensome. The lower court agreed with MCEC and dismissed the petition. Miller appealed.

  The Court of Appeals affirmed, concluding that because Miller's request was overly broad and unduly burdensome, it was not a "sufficient request" under Wisconsin's Public Record Law. Under the PRL, a request made "without a reasonable limitation as to subject matter … does not constitute a sufficient request." Here, the court viewed Miller's request as having "no subject matter limitation" and further found his proposed search term of "election" to be "useless."

  Miller subsequently petitioned the Supreme Court of Wisconsin for review. Such petition was denied.

- ***Fees***

  - ***Kansas***

    2025 Kansas Laws Ch. 89, An Act Concerning Open Records and Open Meetings; Relating to the Open Records Act…

    This Act provides a fee structure permitting a public agency to charge only those costs directly attributable to furnishing the requested records, including the cost to review and redact records, but excluding incidental costs not tied to producing the records. In responding to requests, the agency must, in good faith, use the lowest-paid category of staff reasonably necessary to provide access to or furnish copies of the requested records, based solely on the employee's salary or hourly wage and excluding employee benefits. When the agency reasonably anticipates that more than five hours of staff time or more than $200 will be required, it must make reasonable efforts to contact the requestor through the communication method provided and discuss options for mitigating time or cost. The requestor is not obligated to mitigate. If, after three business days of reasonable efforts, the requestor does not respond, the request is deemed withdrawn until the requestor reinitiates contact. Upon request, the agency must also provide an itemized statement of the costs charged, including hourly rates and any additional fees associated with providing access to or copies of the requested records.

  - ***Missouri***

    2025 Mo. Legis. Serv. H.B. 145 & 59, An Act . . . relating to the disclosure of certain records

    This Act amends the fee provisions of the state's public records law. A public governmental body may require prepayment of fees before fulfilling a request. A request is deemed withdrawn if the requestor fails to remit payment within 90 days (150 days if fees exceed $1,000) or fails to respond within the same period to a request for clarification. If a substantially similar request is submitted within six months of such a withdrawal, the public body may require payment of the same fee assessed for the lapsed request, in addition to any other allowable fees. These provisions do not apply if litigation concerning the requested records has been filed.

  - ***Montana***

    2025 Montana Laws Ch. 479, An Act Generally Revising Public Record Laws

    This Act amends the fee provisions of the state's Public Records Law by establishing three different fee structures applicable to the following situations: (i) fees for making public information maintained by the public agency available for inspection and copying by the requesting person at the public agency; (ii) fees for fulfilling a request for a single, specific, clearly identifiable, readily available public record; and (iii) fees for fulfilling a request for public information that is not a request for a single, specific, clearly identifiable, and readily available public record.

Generally, in all three situations outlined above, an agency may charge for the following: (i) fees not to exceed $25 an hour for searching for, gathering, reviewing, processing, and providing information in the most cost-efficient and timely manner possible; (ii) the actual cost to fulfill the request (with any hourly components still subject to the $25/hour limit); (iii) the cost of providing the public information to the requestor, including but not limited to copying and media costs; (iv) a convenience fee; and (v) other reasonable costs directly incurred by the public agency.

When a request is for public information that is not a request for a "single, specific, clearly identifiable, and readily available public record," the public agency may also charge a filing fee not to exceed $5; however, the agency cannot charge for the first hour of service.

- ***Oklahoma***

  2025 Okla. Sess. Law Serv. Ch. 404, An Act relating to the Oklahoma Open Records Act…

  This Act amends the Oklahoma Open Records Act to permit public agencies to require the prepayment of fees when such fees either: (i) exceed $75; or (ii) the requestor has fees outstanding from a previous request. Any fee portion of the prepaid fee that exceeds the cost of responding to the request must be returned to the requestor.

  A public body may require the requestor to utilize a records request form. If a request does not describe the requested records with "reasonable specificity," the public body may ask for clarification. Reasonable specificity requires: (i) specify a general time frame within which the requested records would have been created or transmitted; (ii) seek identifiable records, rather than general information without any qualifiers or other specifications; and (iii) include search terms that are sufficiently specific to assist the public in identifying the requested records. After engaging with the requestor to seek the information needed to identify the requested records and fulfill the request, the request may be denied if it is still not reasonably specific.

➢ ***Investigations***

- ***Connecticut***

  2025 Conn. Legis. Serv. P.A. 25-166, An Act Concerning the Regulation of Tobacco, Cannabis, Hemp and Related Products, Conduct and Establishments

  This Act charges the Department of Consumer Protection ("DCP") with registering and regulating authorized sellers of electronic nicotine delivery systems and vapor products. Under this Act, DCP may suspend or revoke a dealer registration, issue fines, accept an offer in compromise, refuse to grant or renew a dealer registration, place the registrant on probation, impose conditions on the registrant, or take other actions authorized by law. The Act also creates a new Freedom of Information Act exemption for DCP inspection and investigation materials tied to an administrative complaint or case, which remain confidential until the matter is settled or the investigation is closed.

This exemption does not prevent DCP from sharing investigatory information with federal or state agencies or with law enforcement for purposes of enforcing applicable laws.

- ***Mechanisms for Statutory Enforcement***

  - ***Maine***

    2025 Me. Legis. Serv. Ch. 186, An Act to Implement the Recommendations of the Right to Know Advisory Committee Concerning Denials of Public Records Requests

    Maine's Freedom of Access Act requires that an agency provide notice within 5 working days to a requestor, if a request is denied in full or in part, that sets forth the reason for such denial. This Act requires that such notice must also contain a citation to the statutory authority used as the basis for the denial.

  - ***Oklahoma***

    2025 Okla. Sess. Law Serv. Ch. 335, An Act Relating to Open Records…

    This Act creates a Public Access Counselor Unit within the Office of the Attorney General to provide a formal review mechanism for denials or delays of non-commercial public records requests. A requestor whose non-commercial request is denied—other than requests made to the Legislature or its committees, commissions, or agencies—may file a written request for review within thirty calendar days, including the original request and any related correspondence. If the Public Access Counselor determines that the alleged violation has merit, the Counselor must, within seven business days, forward the review request to the public body and specify the records or documents the public body must furnish; the public body must respond within seven business days. The Attorney General then examines the requestor's submission and the public body's response and must issue an advisement within sixty calendar days of receiving the review request, after which the public body must promptly and reasonably comply or otherwise respond. The Act further provides that a public body that discloses records in accordance with the Attorney General's advisement is immune from all liability and not subject to penalties under the Open Records Act. Finally, the Act authorizes the Attorney General to issue advisory opinions on Open Records Act compliance and expands the Attorney General's statutory duties to include investigating and prosecuting civil or criminal violations of both the Oklahoma Open Records Act and the Oklahoma Open Meeting Act.

  - ***Texas***

    2025 Tex. Sess. Law Serv. Ch. 452, An Act Relating to a Governmental Body's Response to a Request for Public Information

    This Act amends the requirements by which governmental bodies must respond to requests for public information, adding new notice requirements. Under this Act, governmental bodies, within 10 business days of receiving a request, are required to

provide written notice to a requestor indicating that either: (i) no responsive information exists; or (ii) that information is being withheld pursuant to a previous determination of the Office of the Attorney General, with the specific determination identified. If a governmental body seeks to withhold information under an exception not already covered by a prior determination, it must still request an Attorney General decision within the existing 10-business-day deadline.

If a governmental body fails to comply with the response requirements, a requestor may submit a complaint to the Attorney General. If the Attorney General determines that the agency failed to comply, the agency's public information officer must complete public-records training within six months, the agency may not charge the requestor for producing the information, and if the agency wishes to withhold any responsive information, it must request an Attorney General ruling within five business days and release the information, unless a compelling reason exists to withhold it.

- ***Utah***

2025 Utah Laws Ch. 188, Government Records and Information Amendments

This Act amends the provisions allowing requestors or other individuals to recover attorney fees in connection with: (i) appealing a denial of access to public records; (ii) a governmental entity's request for confidential treatment of records for which no exemption applies; and (iii) a governmental entity's petition for relief from a vexatious requestor. Prior to this Act, attorney fees were generally available when the court denied the governmental entity's request or when the requestor substantially prevailed. Now, however, in order for a governmental entity to be liable for attorney fees, a court must find that the entity acted in bad faith, in addition to the existing requirements.

2025 Utah Laws Ch. 476, An Act to create the Government Records Office within the Division of Archives and Records Service…and makes other changes relating to government records.

This Act restructures administrative oversight of public records access by eliminating the State Records Committee ("SRC") and replacing it with a new Government Records Office ("GRO").

Originally established in 1992, the SRC performed two functions: (1) reviewing and approving retention schedules, and (2) hearing record access appeals under the Government Records Access and Management Act ("GRAMA"). In 2019, the legislature created the Records Management Committee to oversee retention schedules, leaving the SRC to focus solely on GRAMA appeals.

Under this Act, the seven-member SRC is replaced by the GRO, staffed by a single Director. The Director of the GRO:

- must be an attorney authorized to practice in the state;
- is appointed for a four-year term and may be reappointed for consecutive terms;

- may be removed during a term only for cause;

- shall, among other duties: (i) supervise and manage the GRO, (ii) appoint and supervise the government records ombudsman, (iii) administer the records appeal process, and (iv) hear appeals regarding access to records and disputes concerning fees;

- may employ staff to support the office's work; and

- may designate another individual to hear and decide a specific appeal if the Director has a conflict of interest.

As an office, the GRO is tasked with being "a resource for citizens and government entities in relation to government records" specifically in connection with: (i) ensuring lawful access to records; (ii) ensuring the lawful restriction of access to records; (iii) the classification of records, (iv) the retention of records; and (v) resolving records disputes (either through informal mediation or the records appeal process).

The Office of the Attorney General ("OAG") provides legal counsel to the GRO.

Oversight of the Director is implemented through an "independent performance survey and evaluation" administered by the Division of Human Resource Management ("DHRM"). The DHRM must survey individuals who appear before the Director, GRO staff, and any other relevant groups. Survey questions address procedural fairness, neutrality, legal ability, temperament, and administrative performance. Based on these results, the DHRM must prepare an evaluation and provide it to the Governor.

In effect, this Act centralizes administrative authority previously exercised by a multi-member committee into a single decision-maker—the GRO Director. This shift is particularly evident in the handling of petitions seeking relief from vexatious requestors. Previously, the SRC determined whether to hear such petitions based on a recommendation from its executive secretary. Under the new structure, the GRO Director decides whether to hold a hearing and, if a hearing is held, whether the petition should be granted. These decisions remain subject to judicial review.

- ***Personally Identifying Information***

  - ***Iowa***

    Diercks v. Scott County
    17 N.W.3d 364 (Feb. 14, 2025)

    Supreme Court of Iowa

    The Iowa Supreme Court held that an application from an individual for a vacant county board position that was being filled through the appointment process was not a confidential record exempt from disclosure under the Iowa Open Records Act ("ORA").

    After a vacancy opened on the Scott County Board of Supervisors, a committee of county officials ("County") was formed and decided to fill the vacancy by appointment. The County invited interested applicants to apply. However, after asking candidates whether they wished their candidacy to remain confidential, and certain candidates confirmed that they did, the County decided to keep the applications, including the identity of the applicants, confidential. The committee convened to deliberate about the applications, referring to five of the applicants by reference number, and not revealing the identity of the chosen candidate until after such person was selected.

    After the appointment, requestors sought access to the names of the applicants and their applications, among other records. The County denied the requests for any candidate who requested confidentiality.

    The requestors filed a petition in district court. The court determined that the County was not required to comply with the requests. The requestors appealed.

    The Supreme Court reversed. The ORA exempt "communications not required by law, rule, procedure, or contract that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government *could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination*." The Court was tasked with determining whether the County could "reasonably believe that [persons outside the government] would be discouraged from making [the communications] to that government body if they were available for general public examination."

    Here, the Court noted that the County did not promise confidentiality to applicants *before* they submitted their information, and that all applicants applied for the vacancy without a promise of confidentiality. In addition, when applicants were prompted by the County about the confidentiality of their applications, more than half of the applicants were not concerned about their applications being public. The Court also noted that, although the County elected to fill the vacancy by appointment, it could have done so by special election. There was also no evidence in the record that the

County "contemplated that an appointment would be less public than a special election." In setting a public meeting, the County "clearly expected to provide the public with an opportunity to comment on their selection." Finally, the Court noted that the vacancy in this matter was for a position in "public office that is regularly filled in a public manner, and it would not be reasonable for [the County] to believe that people would be deterred from applying because the process is not confidential."

Accordingly, the Court concluded that the County could not have reasonably believed that making the applications publicly available would have deterred people outside the government from submitting their applications for the vacancy. The Court therefore held that "an application from an individual outside of government for a vacant county board of supervisors position that is being filled through the appointment process … is not a confidential record exempt from disclosure" under the ORA.

The matter was remanded to the district court for further proceedings.

- ***New York***

Freedom Foundation v. New York City Department of Citywide Administrative Services
230 A.D.3d 999 (September 19, 2024)

Supreme Court, Appellate Division, First Department

The court affirmed the New York City Department of Citywide Administrative Services' ("DCAS") denial of a Freedom of Information Law ("FOIL") request, finding that the requested employee information was properly withheld, in that disclosure would constitute an "unwarranted invasion of personal privacy" and "create a serious security risk to the City of New York's critical information technology assets."

The Freedom Foundation, a nonprofit opposing public employee unions, submitted a request under DCAS, for each City of New York employee, their names, email addresses, contact information, job titles, salary, and other employment data. DCAS denied the request, contending that disclosure of the information would constitute an "unwarranted invasion of personal privacy" because it would be used for solicitation, and that mass disclosure of e-mail addresses would "create a serious security risk … including to the City's critical information technology assets."

Freedom Foundation filed a petition seeking to compel DCAS to provide the requested records. The court determined that DCAS properly withheld the requested information pursuant to the unwarranted invasion of personal privacy exemption and did not reach the issue of whether the cybersecurity exemption applied to the requested records.

On appeal, the court agreed that DCAS met its burden that disclosure would constitute an unwarranted invasion of personal privacy, and that the records are exempt under the cybersecurity exemption.

DCAS argued that disclosure would constitute an unwarranted invasion of personal privacy, which includes "sale or release of lists of names and addresses if such lists would be used for solicitation or fund-raising purposes" (i.e., solicitation). Under FOIL, "a petitioner's motive or purpose in seeking the records becomes relevant if the petitioner's intended use of the requested material would run afoul of" the claimed exemption. Freedom Foundation argued that the exemption does not apply because its "outreach campaign" does not involve directly soliciting money. The court disagreed because the exemption bars the release of lists of names and addresses "if such lists would be used for solicitation or fund-raising purposes." Per the court, the use of the information to contact employees to urge them to stop paying union dues falls squarely within this definition.

Alternatively, DCAS asserted that disclosure would "jeopardize its capacity to guarantee the security of its information technology assets" and that "mass release of employee email addresses would significantly increase the vulnerability of the City's systems to email-based cyberattacks." The court agreed, relying on statements from DCAS's general counsel and chief information security officer explaining that disclosure of all City employee email addresses would make it substantially easier "for threat actors to successfully attack City … employees … in phishing and other email-based attacks."

- ***Patient and Medical Records***

  - ***Viriginia***

    2025 Virginia Laws Ch. 149, An Act…Relating to the Acute Psychiatric Bed Registry; Bed Registry Advisory Council; Patient Privacy and Data Security; Virginia Freedom of Information Act Exemption

    This Act amends Virginia's Freedom of Information Act to exclude from mandatory disclosure "information submitted to the acute psychiatric bed registry." The law establishing the state's acute psychiatric bed registry required all state facilities, community services boards, behavioral health authorities, and licensed private inpatient providers to participate in and regularly update the registry, which tracks real-time availability of psychiatric beds across public and private facilities. This Act also: (i) clarifies that the registry is used solely for determining the appropriate placement of individuals in need of psychiatric care; and (ii) establishes the Bed Registry Advisory Council (the "Advisory Council"). The Advisory Council is composed of various state officials and healthcare representatives and is tasked with advising on registry operations, ensuring patient privacy and data security, and approving access to all data (individual or aggregated) collected through the acute psychiatric bed registry.

- ***Plea Negotiations***

  - ***New Mexico***

    Borrego v. First Judicial District Attorney's Office
    No. A-1-CA-41149 (March 11, 2025)

    Court of Appeals of New Mexico

    The First Judicial District Attorney's Office ("FJDA") charged nine individuals related to the destruction of a monument in Santa Fe, commonly called The Obelisk. As part of the plea negotiations and consideration of a pre-prosecution diversion program, the defendants submitted statements of admission.

    Requestors submitted a request for these statements, among other items, under the Inspection of Public Records Act ("IPRA"). FJDA provided some records with redactions but denied the request for the statements as attorney work product, attorney-client privileged communications, privileged plea discussions or related to settlement/ resolution of pending litigation, and confidential under IPRA.

    Requestors filed petitions for writ of mandamus. The district court concluded that the records were properly redacted and/or withheld. Requestors appealed.

    The Court of Appeals affirmed, holding that the emails and statements of admission, which constituted "plea negotiations," were exempt from disclosure under the "otherwise provided by law" disclosure exception of IPRA. The court relied on the state's rules of evidence as the basis for such privilege.

- ***Procurement***

  - ***Mississippi***

    2025 Miss. Laws Chapter 323, An Act…To Exempt Records of a Public Body Which Contain Client Information Concerning Development Projects…

    The Act amends Mississippi Code § 57-1-14 by extending the confidentiality period for development-project client records from three to four years and by broadening the exemption's scope so that it applies to any public body, rather than only the Mississippi Development Authority.

  - ***Ohio***

    2025 Ohio Laws File 14, Appropriations (OH ST 125.11)

    Under this Act, materials relating to a solicitation through competitive selection are not public records under the Public Records Act until after the award of the contract based on such selection. If all bids or proposals received are rejected, and notice is provided of an intent to reissue the solicitation through competitive selection, the materials

relating to the original solicitation and the reissued solicitation are not public records under the Public Records Act until after the award of the contract that was based on the reissued solicitation.

- ***Public Defenders***

  - ***Illinois***

    2025 Ill. Legis. Serv. P.A. 104-300, An Act Concerning State Government

    This Act amends the Illinois Freedom of Information Act to exempt from disclosure certain records of agencies or commissions subject to the State Public Defender Act, such as: (i) records containing individual client identities or case file information; (ii) investigation records; (iii) records that would otherwise be subject to the attorney-client privilege or discoverable in litigation; (iv) training materials; (v) records related to attorney consultation and representation strategy. This Act, however, does permit the disclosure of de-identified, aggregated, administrative records, such as general case processing and workload information.

- ***Student Athlete Agreements***

  - ***New Jersey***

    2025 NJ Sess. Law Serv. Ch. 110, An Act Concerning Student-Athletes

    This Act establishes protections for student-athletes and four-year institutions of higher education concerning compensation for the students' name, image or likeness of the student. Among other things, this Act clarifies that any contract a student-athlete enters into that provides compensation to the student-athlete for use of the student-athlete's name, image, or likeness is not subject to public disclosure pursuant to the State's open public records act.

- ***Test and Examination Questions***

  - ***Mississippi***

    2025 Miss. Laws Chapter 457, An Act To Amend Section 37–11–51, Mississippi Code Of 1972, To Provide That School District Test Security Plans For The Administration Of The Statewide Student Assessment Program Shall Be Exempt From The Mississippi Public Records Act Of 1983

    This Act creates a new exemption under the Mississippi Public Records Act. Specifically, it provides that school district test security plans used for administering the Statewide Student Assessment Program are confidential and exempt from public disclosure. This exemption is added alongside existing protections for test materials, letters of recommendation, academic research records, unpublished manuscripts, and school safety plan documents.

- ***Unreasonable Delay***

  - ***Florida***

    Executive Office of Governor v. Florida Center for Government Accountability
    408 So.3d 839 (February 19, 2025)

    District Court of Appeal of Florida, First District

    The District Court of Appeal of Florida, First District reversed a lower court's determination that the Governor's Office violated Florida's Public Records Act ("PRA") when it unreasonably delayed in responding to public records requests.

    The Florida Center for Government Accountability ("Center") requested records from the Governor's Office regarding a migrant-relocation program that moved migrants from Texas to Martha's Vineyard, MA.

    The circuit court found that the office unreasonably delayed its response and improperly withheld or redacted documents. On appeal, the court held that, given the broad scope of the request and a concurrent state emergency, the delay was not unreasonable. Under the PRA, each public agency has a duty to provide access to public records. To comply with that duty, "[e]very person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, *at any reasonable time, under reasonable conditions,* and under supervision by the custodian of the public records." By use of the term "reasonable" the PRA contemplates there may be "reasonable custodial delay necessary to retrieve a record and review and excise exempt material." Further, "[t]he Act demands prompt attention and a reasonable response time, not the quickest-possible response."

    However, under the PRA, the plaintiff must prove that the [agency] improperly refused to produce them in a timely manner. Here, the lower court improperly placed the burden of proof on the Governor's Office. The court also noted that the request was not singular or for records in an "already-composed file", and that, due to its scope, compliance would "take some time." The court also expressed that compliance with the request coincided with a statewide emergency of a major hurricane. Given the record before it, the Center failed to demonstrate that the Governor's Office's response constituted an unreasonable delay that violated the PRA.