

**From:** [Steven Bailey](#)  
**To:** [Laxon, Lindsay](#)  
**Cc:** [McCarthyReid, Colleen](#); [Eileen King](#)  
**Subject:** RE: Correspondence from the Right to Know Advisory Committee  
**Date:** Monday, July 1, 2024 2:49:35 PM  
**Attachments:** [image001.png](#)

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**This message originates from outside the Maine Legislature.**

Good afternoon Lindsay,

I am submitting responses from MSMA for the Right to Know Advisory Committee's survey regarding public records requests that are burdensome or an abuse of the Freedom of Access Act process. Thank you for providing the opportunity to supply this information.

Here are the questions and responses:

1. Please provide examples of the types of public records requests that your organization considers to be "burdensome" requests for public records.
  - a. Multiple, multiple, multiple requests by the same individual, on successive days on the same topic, breaking up a much larger time-period request into smaller requests, presented with the apparent intent to disrupt daily & monthly operations.
  - b. Large time-period requests, over multiple years, requesting multiple data points; again with seeming intent to disrupt.
  
2. Please provide examples of the types of public records requests or situations that your organization believes represent an abuse of the FOAA process.
  - a. "Types" of requests have been as much of an issue. If the request didn't meet the criteria, that response was provided.
  - b. A type that was problematic was the large data request involving staff data that included confidential information where much redaction was required and every page touch needed to be reviewed for allowable information.
  
3. Do you have recommendations for statutory changes to FOAA to address examples described in questions 1 or 2? If so, please describe your recommendations.

Here is language from a prior bill submission that we supported that we still think would be valuable:

- The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record in accordance with this paragraph. Compiling the public record includes reviewing and redacting confidential information.
- The agency or official may not charge a fee for the first 2 hours of staff time per request, except when the person making the public records request of that

- agency or official has previously made a request during the same calendar year.
- After the first 2 hours of staff time, the agency or official may charge a fee of not more than \$40 per hour.

Public records requests regarding school employees.

- If a school employee is the subject of a public records request, the employee must be notified of the request as soon as practicable. The employee must be provided an opportunity to inspect the records to be submitted to the requestor before the requestor receives any documents or materials involving the employee. The school district may require the use of the form under Title 5, section 200-I, subsection 2, paragraph H for any request. If the school district believes the public records request is frivolous or designed to intimidate or harass, the school district may seek the opinion of the Public Access Ombudsman regarding the request. If the Public Access Ombudsman determines that the request is part of a series of contemporaneous requests, or a pattern of requests, that are frivolous or designed to intimidate or harass and that the requests are not intended for the broad dissemination of information to the public about actual or alleged government activity, the Public Access Ombudsman may relieve the agency or official of the obligation to provide the public records sought pursuant to Title 5, section 200-I, subsection 2, paragraph G. If the requestor disagrees with the denial of a request by the Public Access Ombudsman based on these standards, the requestor may appeal the denial pursuant to section 409.
- Coordinate with the state agency public access officers the compilation of data through the development of a uniform log to facilitate record keeping and annual reporting of the number of requests for information, the average response time and the costs of processing requests.
- Create a form for the submission of public records requests. The form must be simple, short and designed to provide only the basic information required to fulfill the request.

We hope this information is helpful.

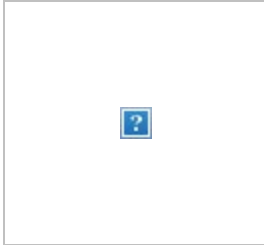
Thanks again for the opportunity to respond.

Steve

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**From:** Laxon, Lindsay <Lindsay.Laxon@legislature.maine.gov>  
**Sent:** Tuesday, June 25, 2024 12:26 PM  
**To:** Steven Bailey <SBailey@MSMAweb.com>  
**Cc:** McCarthyReid, Colleen <Colleen.McCarthyReid@legislature.maine.gov>; Vicki Wallack <VWallack@MSMAweb.com>  
**Subject:** Correspondence from the Right to Know Advisory Committee

Dear Steve,

I am following up on the Right to Know Advisory Committee's survey requesting information about public records requests that are burdensome or an abuse of the Freedom of Access Act process. If you have any questions about the survey or need any additional information, please feel free to contact me or my colleague, Colleen McCarthy Reid ([Colleen.McCarthyReid@legislature.maine.gov](mailto:Colleen.McCarthyReid@legislature.maine.gov)). Thank you!

Sincerely,

Lindsay J. Laxon, Esq.  
Legislative Analyst  
Office of Policy and Legal Analysis  
Maine State Legislature  
(207) 287-1670

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**From:** McCarthyReid, Colleen <[Colleen.McCarthyReid@legislature.maine.gov](mailto:Colleen.McCarthyReid@legislature.maine.gov)>  
**Sent:** Thursday, January 18, 2024 11:21 AM  
**To:** 'sbailey@msmaweb.com' <[sbailey@msmaweb.com](mailto:sbailey@msmaweb.com)>  
**Cc:** Laxon, Lindsay <[Lindsay.Laxon@legislature.maine.gov](mailto:Lindsay.Laxon@legislature.maine.gov)>; 'Vicki Wallack' <[VWallack@msmaweb.com](mailto:VWallack@msmaweb.com)>  
**Subject:** Correspondence from the Right to Know Advisory Committee

Dear Steve,

On behalf of the Right to Know Advisory Committee, I am sharing the following correspondence:

1. A letter related to the statutory requirements for executive sessions pursuant to Title 1, section 405, subsection 4;
2. A letter related to the development and use of a form for public records requests; and
3. A survey requesting information about public records requests that are burdensome or an abuse of the Freedom of Access Act process.

Please reach out to me or my colleague, Lindsay Laxon ([Lindsay.laxon@legislature.maine.gov](mailto:Lindsay.laxon@legislature.maine.gov)), if you have any questions or need additional information.

Thank you for your consideration, Colleen

Colleen McCarthy Reid, Esq.  
Principal Analyst  
Office of Policy and Legal Analysis  
Maine State Legislature  
207-287-1688 (direct)