

**NORTH CAROLINA DEPARTMENT OF STATE TREASURER
PUBLIC RECORDS POLICY**

I. PURPOSE

The North Carolina Public Records Act, N.C.G.S. §§ 132-1 *et seq.*, expresses the policy of the State of North Carolina with respect to public records as set forth in § 132-1(b):

The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law.

The North Carolina Department of State Treasurer (the “Department”) is committed to transparency, ethics and accountability in state government. To that end, the Department makes many documents (such as the Department’s annual report; board minutes and meeting materials; procurement documents; and key departmental policies or procedures) available to the public on its website. These documents can be obtained without the need for a public records request.

In addition, the Department is open and responsive to information requests from the public and the news media. It is the policy of the Department to comply in full with the North Carolina Public Records Act and other applicable federal and state laws. This document sets forth the Department’s protocol for the release of public information, specifically the processing of media inquiries and public records requests.

The State Health Plan, a division of the Department, has a separate Public Records Policy (policy number SHP-POL-1002-SHP) focused on the particular statutory and regulatory requirements applicable to the records held by the Plan. Therefore, the State Health Plan is excluded from this Policy. Any request for protected health information should be directed to the State Health Plan.

II. MEDIA INQUIRIES

All media inquiries should be directed to the Office of State Treasurer Communications staff through the media telephone line: (919) 807-3132 or by email at press@nctreasurer.com .

Media inquiries should not be directed to DST staff. Any DST staff member receiving a request directly from the news media should immediately refer the request to the Communications staff.

III. PUBLIC RECORDS REQUESTS

A. *The Scope of the North Carolina Public Records Act*

Any record created or received in the course of the Department's business is a public record unless an exception applies. State law defines a "record" as any document, regardless of form, including but not limited to paper, films, audio tapes, pictures, photographs, computer files and email communications. *See* N.C.G.S. § 132-1(a).

Exceptions to the North Carolina Public Records Act include certain personnel, trade secret and attorney-client or work product privileged information.

The North Carolina Public Records Act does not require "creating or compiling a record that does not exist." *See* G.S. § 132-6.2(e).

B. *Procedure for Making a Public Records Request*

All public records requests must be directed, in writing, to the Department's Communications Manager or his or her designee at publicrecords@nctreasurer.com.

Public records requests should not be directed to DST staff. Any DST staff member receiving a public records request should immediately refer the request to the Communications Manager or his or her designee.

Public records requests should clearly and concisely state the:

- specific information requested;
- preferred method for production (see III.C, "Production", below);
- contact information for the requestor.

C. *Production*

Inspection: The Department will make documents available for inspection at the Department's physical address during regular business hours.

Copies: Copies of public records are available upon request. Copies may be picked up in-person at the Department's physical location or may be mailed, at the expense of the requestor. If the Department mails copies, it may charge its postage costs, the cost of any electronic media, and the cost for the materials used for mailing.

Format: Documents will ordinarily be produced by the Department either as paper copies or as PDF images of paper copies.

If the requesting person so requests, documents will be produced in the format in which those files are kept on the Department's computer system. *See* G.S. § 132-6.2(a). A request for documents to be produced in their original format may delay the

date for production and may cause the department to charge a special service charge if “producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested.” *See* G.S. § 132-6.2(b). Section III.D of this Policy, “Fees”, discusses this potential service charge in further detail.

Time Frame: Documents will be made available as promptly as possible. In general, the Department will seek to process public records requests on a first in – first out basis, but this time frame may be adjusted by the difficulty involved in processing any particular request. In particular, public records requests that require searches of all records in the Department, rather than searches of the files of particular individuals, may require a substantially longer time to complete. If the Department receives multiple requests within a short period of time from the same individual, it may in its discretion consider those as a single request, then schedule its response according to the timing of the last request in the set.

D. Fees

Section 132-6.2(b) of the North Carolina General Statutes allows public agencies to “charge a fee for an uncertified copy of a public record.” Except for extraordinary requests, discussed below, the agency may not charge a fee that “exceeds the actual cost to the public agency of making the copy,” as determined by generally accepted accounting principles. G.S. § 132-6.2(b).

Ordinary copies produced in paper format: In accordance with the North Carolina Department of Administration’s “Access to Public Records” policy (GA-021), the Department will charge \$0.10 per page after the first 20 pages for printing and copying. Double-sided originals will be charged at \$0.10 per side of the page copied.

Ordinary copies produced in PDF format: In accordance with the North Carolina Department of Administration’s “Access to Public Records” policy (GA-021), the Department may charge \$15 per CD-ROM or flash drive produced to the requesting party. This cost reflects not only the cost of the electronic media, but also the cost of printing and scanning the documents produced on the CD-ROM or flash drive. The Department may charge a fee less than \$15 per CD-ROM or flash drive if, in its judgment, this fee would be greater than the actual cost of preparing the production.

Special Service Charge for Extraordinary Requests: Section 132-6.2(b) of the North Carolina General Statutes authorizes, “in addition to the actual cost of duplication,” the agency to charge a “special service charge” in any of the following circumstances:

- “if the request is such as to require **extensive use of information technology resources** or”
- “**extensive clerical or supervisory assistance by personnel** of the agency involved, or if”

- **“producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested...”**

G.S. § 132-6.2(b) (emphasis added). In such circumstances, the Department will charge a special service charge.

This special service charge must be “reasonable” in the circumstances. G.S. § 132-6.2(b). The charge also must not be greater than the “actual cost incurred” for either the “extensive use of information technology resources or the labor costs of the personnel providing the services.” G.S. § 132-6.2(b). In computing a special service charge, the Department generally will charge a presumed rate of \$18.00 per hour for any Department employees; the Department will charge for outside contractors’ time at their actual rate.

The Communications Manager or his or her designee will provide the requestor with an estimate of any special service charge before processing the request. The requestor will be given the option of either agreeing to pay the charge or revising the request to narrow its nature or scope. Multiple requests within a short period of time from the same individual will be considered a single request for purposes of determining whether to charge a special service charge under this section.

E. Waiver of Charges

The Department may waive these charges, in its discretion, if extraordinary circumstances exist, if the production is necessary to carry out the Department’s ordinary business, or if the costs of collecting the fee (including postage and the value of the time taken by State personnel to pursue collection of fees) would exceed the fee charged.

IV. RETENTION OF PUBLIC RECORDS

Public records may not be destroyed except in accordance with the Department’s records retention schedules, which have been approved by the North Carolina Department of Cultural Resources.

The Department has a legal obligation to maintain all records that relate to a matter in litigation or other legal action. This obligation overrides the Department’s record retention schedules. Employees may not destroy or delete any records relating to an ongoing or potential litigation matter or other legal action.