

Updated Public Records Law

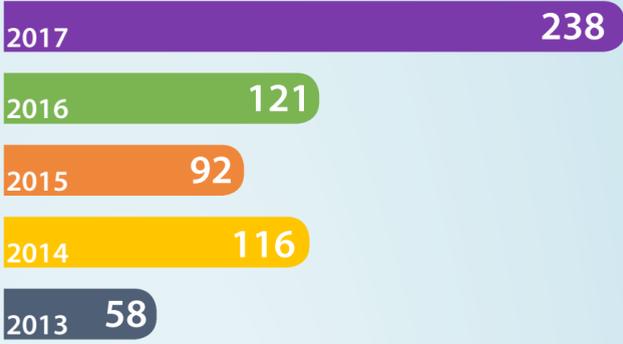
By the Numbers

The updates to the Massachusetts Public Records Law (Law) became effective on January 1, 2017. New changes to the Law include: specified time periods for the Supervisor of Records (Supervisor) to issue determinations on public records appeals, limits on fees permitted to be charged by government Records Access Officers (RAOs) and requirements for state agencies to track and report public records request information. Take a look below at how the updated Law has had an effect so far:



Increase in Supervisor determinations issued from January 1st-March 1st

When a requester is denied access to records, the requester may appeal to the Supervisor to determine the public status of the requested records. In part due to the new requirement for the Supervisor to issue determinations on appeals within 10 business days, the Secretary of the Commonwealth's Public Records Division has seen a significant increase in the number of these appeals closed in the first two months of 2017 compared with the same time period in previous years.



Lookback: Supervisor of Records Appeals Opened

More appeals have been opened in these first two months of the updated Law than in the entire first year the Supervisor issued determinations!

268

198



Appeal Breakdown

Requesters are denied access to records for a number of reasons. The majority of appeals received by the Public Records Division so far in 2017 have been due to requesters appealing non-responses as well as the exemptions claimed by RAOs.

- Fees: 24
- Non-response: 92
- Exemptions Claimed: 62
- Unsatisfactory Response: 55 (not all records provided, etc.)
- Attorney Client Privilege: 5

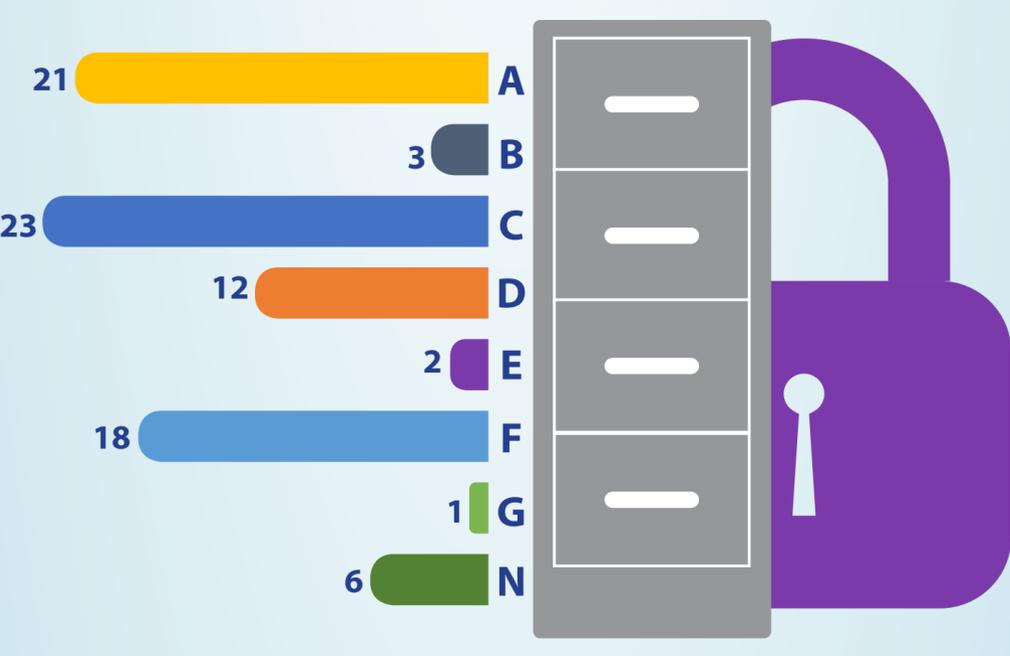
Time Taken to Issue Supervisor's Determination

Under the new Law, the Supervisor must issue a determination on an appeal within 10 business days of receipt. While a number of the cases require the full 10 business days for the Supervisor to issue a determination, determinations in the majority of appeals in the first two months of 2017 have been issued in 3 business days or less.



Exemptions Claimed

RAOs may withhold access to records if the records fall under one or more of the exemptions to disclosure. Exemptions are lettered (a)-(u) and can all be found at M.G.L. c. 4, § 7(26). Statutory Exemptions (a) and the privacy Exemption (c) were most commonly claimed by RAOs in the first two months of 2017.



Public records rarely allowed to be withheld in their entirety

In Massachusetts, the presumption is that government records are public. An RAO has the burden to establish why requested records fall under an exemption and may be withheld. In the first two months of 2017, the Supervisor permitted requested RAOs to withhold requested records in their entirety in only 3.86% of determinations.



All of the determinations issued by the Supervisor are public and available on the Secretary of the Commonwealth's website at: www.sec.state.ma.us/pre.

For more information on the Public Records Law, please read the *Guide to the Massachusetts Public Records Law* available at: www.sec.state.ma.us/pre/prepdf/guide.pdf.

For any questions about the Public Records Law, please contact the Secretary of the Commonwealth's Public Records Division at 617-727-2832 or pre@sec.state.ma.us.

