

Right to Know Advisory Committee

**PROPOSED DRAFT CORRESPONDENCE CONCERNING AVERAGE RESPONSE
TIME DATA FOR FOAA REQUESTS
*REFLECTS DECISIONS MADE AT NOV 10th MEETING***

December 1, 2021

Brenda L. Kielty
Public Access Ombudsman
Office of the Attorney General

Re: Freedom of Access Act Requests Response Time

Dear Ms. Kielty:

During the first meeting of the Right to Know Advisory Committee, you asked the committee to consider how the fee waiver provision in the State's freedom of access law is applied and what impact that may have on accessibility of public records. The committee discussed the issue of fee waivers during the November 10th meeting.

During the meeting, concerns were raised that the standard response to a fee waiver request by some agencies is to deny the request and some members expressed an interest in seeing language included in the State's freedom of access law that would require the agency to include an explanation for the denial tied to the language in Title 1, section 408-A, sub-§11. The Advisory Committee also discussed the impact that recent changes to the freedom of access law increasing the amount of time without charge dedicated to searching for, retrieving and compiling the requested public record would have on fee waiver requests. Previous information provided to the Advisory Committee indicated that the majority of FOAA requests could be completed within an hour. The Advisory Committee is interested in learning how many requests can now be completed without charge in the increased timeframe of two hours and if this change reduces the number of fee waiver requests and therefore the number of waiver denials.

As such, the Advisory Committee requests that the Public Access Ombudsman ask agencies to gather data related to the number of FOAA requests that can be searched for, retrieved and compiled within two hours as a part of the required annual tracking and data collection completed by the agency FOAA contacts. The Committee asks that you report back to the Committee regarding this matter by December 1, 2022.

We appreciate your attention to this matter and for your continued assistance to this Committee.

Sincerely,

Representative Thom Harnett, Chair
Right to Know Advisory Committee