

**From:** Diamond, Joshua <Joshua.Diamond@vermont.gov>  
**Sent:** Thursday, July 28, 2022 3:04 PM  
**To:** Leah Korce <[REDACTED]>; Humbert, Jacob <jacob.humbert@vermont.gov>  
**Cc:** Jandl, Lauren <Lauren.Jandl@vermont.gov>; Mishaan, Jessica <Jessica.Mishaan@vermont.gov>  
**Subject:** RE: Public Records Act request, 7/13/22 - Appeal

Dear Leah,

I'm in receipt of your appeal and will respond within the time frame set forth in 1 V.S.A. sec. 318(c)(1).

Regards, Josh Diamond

Joshua R. Diamond, Deputy Attorney General  
Vermont Attorney General's Office  
109 State Street  
Montpelier, Vermont 05609  
802-595-8317  
[joshua.diamond@vermont.gov](mailto:joshua.diamond@vermont.gov)

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**From:** Leah Korce <[REDACTED]>  
**Sent:** Thursday, July 28, 2022 12:44 PM  
**To:** Humbert, Jacob <[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)>  
**Cc:** AGO - Info <[AGO.Info@vermont.gov](mailto:AGO.Info@vermont.gov)>; Diamond, Joshua <[Joshua.Diamond@vermont.gov](mailto:Joshua.Diamond@vermont.gov)>; Jandl, Lauren <[Lauren.Jandl@vermont.gov](mailto:Lauren.Jandl@vermont.gov)>; Mishaan, Jessica <[Jessica.Mishaan@vermont.gov](mailto:Jessica.Mishaan@vermont.gov)>  
**Subject:** Re: Public Records Act request, 7/13/22 - Appeal

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Joshua,

See below correspondence re: PRA.

Thank you,  
Leah Korce

On Thu, Jul 28, 2022 at 12:40 PM Humbert, Jacob <[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)> wrote:

Leah Korce:

By cc here, I am forwarding your appeal to Deputy Attorney General Joshua Diamond (at [joshua.diamond@vermont.gov](mailto:joshua.diamond@vermont.gov)), who is the acting agency head for Public Records Act appeals.

Thank you.

Jacob A. Humbert, Assistant Attorney General

Director, Administrative Law Unit

Vermont Attorney General's Office

[109 State Street](#)

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(802) 828-0276

[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)

Pronouns: he/him/his

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**From:** Leah Korce <[REDACTED]>

**Sent:** Thursday, July 28, 2022 12:10 PM

**To:** Humbert, Jacob <[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)>

**Cc:** AGO - Info <[AGO.Info@vermont.gov](mailto:AGO.Info@vermont.gov)>; Jandl, Lauren <[Lauren.Jandl@vermont.gov](mailto:Lauren.Jandl@vermont.gov)>; Mishaan, Jessica <[Jessica.Mishaan@vermont.gov](mailto:Jessica.Mishaan@vermont.gov)>

**Subject:** Re: Public Records Act request, 7/13/22 - Appeal

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Per 1 VSA 318 (a)(2), my July 13th PRA request, which was narrowed per my July 19th email, has effectively been denied as your agency has failed to comply within the applicable time limit provided per law, id at (b)(5).

Per 1 VSA 318 (c)(1), I am appealing the denial of my PRA dated July 13, as narrowed by my July 19th email. Again, my PRA is as follows:

*"I'm looking for records regarding when (approximate month or date) the practice of including "do not darken my door" or "non-rehire" clauses was eliminated in State of Vermont employee settlement agreements per the AGO and any communications regarding not including such clauses in SOV employee settlement agreements to Governor's office and/or DHR."*

*Note, per my July 13th request, the timeframe for the request is between Jan 1st 2016 through March 1, 2018.*

The appeal statute states an appeal should be sent to the *head of the agency*; which is not normally the same person as the custodian and/or main point of contact for response to the PRA - as the same person who denied the PRA should not be the same to review and decide upon on the appeal of the denial of access.

Who is the agency head, name and email address, to whom I should forward this PRA appeal?

Thank you,

Leah Korce

On Thu, Jul 28, 2022 at 10:25 AM Leah Korce <[REDACTED]> wrote:

I did not narrow my request to mirror my original June 29th PRA. I narrowed the scope of my July 13th PRA in my email from the 19th to the following:

*If it helps narrow the search, I'm looking for records regarding when (approximate month or date) the practice of including "do not darken my door" or "non-rehire" clauses was eliminated in State of Vermont employee settlement agreements per the AGO and any communications regarding not including such clauses in SOV employee settlement agreements to Governor's office and/or DHR.*

It is the above narrowed scope related records I am seeking; not a cost estimate of the original 13th request as that request was narrowed on the 19th.

The denial reason below is non-responsive to the PRA from July 13th, as narrowed on the 19th.

Again, a response to my July 13th PRA - narrowed on the 19th, was due on the 10th business day which was yesterday. What date can I expect my response?

Thank you,

Leah

On Thu, Jul 28, 2022 at 9:53 AM Humbert, Jacob <[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)> wrote:

Leah Korce:

I am reaching back out to respond to your recent e-mails.

My understanding was that your July 19, 2022 explanation of what you were looking for did not narrow the pending request. But, if your request has been narrowed to seek only records between January 1, 2016 - March 1, 2018 delivered by the AGO to the Governor's Office and/or DHR that directed the elimination of the practice of including "do not darken my door" or "non-rehire" clauses in State of Vermont employee settlement agreements, then our searches to date have determined that no such record exists.

If you wish to appeal that determination or any deemed denial related to your July 13, 2022 request, you may do so in writing to Deputy Attorney General Joshua Diamond at [joshua.diamond@vermont.gov](mailto:joshua.diamond@vermont.gov) pursuant to 1 V.S.A. § 318(c).

In any event, following up on my e-mail from yesterday, and continuing under the assumption that you still intended to seek all records encompassed by your July 13, 2022 request, my hope is to get you a cost estimate tomorrow. And if you confirm then that you still wish to proceed with the full scope of such request recognizing that cost estimate, I will then seek to produce any and all responsive, non-exempt records within three business days thereafter, meaning by the close of business Tuesday, August 2, 2022.

Thank you.

Jacob A. Humbert, Assistant Attorney General

Director, Administrative Law Unit

Vermont Attorney General's Office

[109 State Street](#)

[Montpelier, Vermont 05609](#)

(802) 828-0276

[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)

Pronouns: he/him/his

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**From:** Leah Korce <[REDACTED]>  
**Sent:** Thursday, July 28, 2022 8:39 AM  
**To:** Humbert, Jacob <[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)>; Jandl, Lauren <[Lauren.Jandl@vermont.gov](mailto:Lauren.Jandl@vermont.gov)>; Mishaan, Jessica <[Jessica.Mishaan@vermont.gov](mailto:Jessica.Mishaan@vermont.gov)>; AGO - Info <[AGO.Info@vermont.gov](mailto:AGO.Info@vermont.gov)>  
**Subject:** Re: Public Records Act request, 7/13/22

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I called the main line and asked to speak to someone about my PRA. Deb said she forwarded my emails. I asked for her supervisor's name and phone number and she told me she does not give out AG staff direct phone numbers. I called the number listed for Lauren in the VT State Directory, but received a voicemail with no identification of the receiver so I did not leave a message.

I'd like a response asap to my emails and when I can expect the response. This was a pretty simple request and I've been more than patient waiting the extended time for the response that was due yesterday, the 10th business day.

Leah Korce, JD

On Wed, Jul 27, 2022 at 4:22 PM Leah Korce <[REDACTED]> wrote:

My narrowed PRA request from the 13th is below. I am not understanding why a response to my request has not been received as of today- the 10th business day per your office's requested an extension to provide a response.

A date I can expect a response to my PRA is needed.

----- Forwarded message -----

From: Leah Korce <[REDACTED]>  
Date: Tue, Jul 19, 2022 at 5:20 PM  
Subject: Re: Public Records Act request, 7/13/22  
To: Humbert, Jacob <[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)>

Thanks, Jacob.

If it helps narrow the search, I'm looking for records regarding when (approximate month or date) the practice of including "do not darken my door" or "non-rehire" clauses was eliminated in State of Vermont employee settlement agreements per the AGO and any communications regarding not including such clauses in SOV employee settlement agreements to Governor's office and/or DHR.

Thank you,

Leah

Leah I. Korce, JD

Article for reference 10/24/2018:

<https://www.burlingtonfreepress.com/story/news/politics/government/2018/10/24/vermont-employees-sex-discrimination-harassment-punished-legislature-human-rights-commission/1588751002/>

Assistant Attorney General Kate Gallagher, the chief of the civil division, said the no-rehire agreements were sometimes used to prevent conflicts from flaring up again within a specific division of state government.

"It's almost like buying peace," Gallagher said. She did not know the total number of people who made discrimination claims who are currently barred from state employment, **but said the practice has stopped under Attorney General T.J. Donovan.**

"I do think there has been sort of a growing understanding of the impact of these types of clauses and that maybe they're not the most appropriate things to do," Gallagher said.

On Tue, Jul 19, 2022 at 4:24 PM Humbert, Jacob <[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)> wrote:

Leah Korce:

I have been assigned to assist in responding to your Vermont Public Records Act request dated July 13, 2022. Particularly, I am reaching out today because you asked to be informed if the fees to respond to this request would exceed \$50.00. While we have not yet been able to complete a cost estimate, we do anticipate given the potentially voluminous amount of records implicated by your request that the resulting fees could be well in excess of \$50.00. Also, please further note that it is likely the vast majority of records responsive to your request (such as attorney-client communications, attorney work product, etc.) will be privileged and, therefore, will be exempt from public inspection and copying under the Vermont Public Records Act.

In any event, we will be back in touch when we're able to compile a more definite cost estimate. Pursuant to 1 V.S.A. § 318(d), once we gather more information about the time and costs associated with processing your request, we may wish to consult with you about narrowing the scope of your request. Until then, to clarify and potentially narrow your request, please feel free to reach out to me directly.

Thank you.

Jacob A. Humbert, Assistant Attorney General

Director, Administrative Law Unit

Vermont Attorney General's Office



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[Montpelier, Vermont 05609](#)

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[jacob.humbert@vermont.gov](mailto:jacob.humbert@vermont.gov)

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