

**From:** [Diamond, Joshua](#)  
**To:** [Leah Korce](#)  
**Cc:** [Jandl, Lauren](#); [Mishaan, Jessica](#)  
**Subject:** Public Records Appeal  
**Date:** Friday, August 5, 2022 6:53:48 AM  
**Attachments:** [8-5-22 Appeal.pdf](#)

---

Dear Ms. Korce,

Please find attached the response to your appeal from the public records request to the Vermont Attorney General's Office.

Regards, Joshua 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)

**PRIVILEGED & CONFIDENTIAL COMMUNICATION:** This communication may contain information that is privileged, confidential, and exempt from disclosure under applicable law. **DO NOT** read, copy or disseminate this communication unless you are the intended addressee. If you are not the intended recipient (or have received this E-mail in error) please notify the sender immediately and destroy this E-mail. Vermont's lobbyist registration and disclosure law applies to certain communications with and activities directed at the Attorney General. Prior to any interactions with the Office of the Vermont Attorney General, you are advised to review Title 2, sections 261-268 of the Vermont Statutes Annotated, as well as the Vermont Secretary of State's most recent compliance guide available at <https://www.sec.state.vt.us/elections/lobbying.aspx>.

SUSANNE R. YOUNG  
ATTORNEY GENERAL

JOSHUA R. DIAMOND  
DEPUTY ATTORNEY GENERAL

SARAH E.B. LONDON  
CHIEF ASST. ATTORNEY GENERAL



TEL: (802) 828-3171

<http://www.ago.vermont.gov>

STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

August 5, 2022

Leah I Korce

By e-mail to : [REDACTED]

Re: Appeal of Vermont Public Records Act Request

Dear Ms. Korce:

This is a determination, pursuant to 1 V.S.A. § 318(c), on the appeal of your public records request. On July 19, 2022, you narrowed the original public records request to the following:

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.

This narrowed your original July 13, 2022, public records request that sought "electronic copies of all memos, emails and work product regarding the topic of 'do not darken my door' aka 'no rehire' clauses and SOV employment settlement agreements between January 1, 2016-March 1, 2018."

On August 2, 2022, Assistant Attorney General Jacob Humber responded by e-mail stating that:

Based on the results of our search, I have concluded that no record exists in the period of January 1, 2016 - March 1, 2018 that, per the AGO, eliminated the practice of including "do not darken my door" or "non-rehire" clauses in State of Vermont employee settlement agreements.

As for the portion of your narrowed request concerning "any communications regarding not including such clauses in SOV employee settlement agreements to Governor's office and/or DHR," our search has located one responsive record from the relevant period of January 1, 2016 - March 1, 2018. Such record is an e-mail string between Assistant

Attorney General Julio Thompson and Department of Human Resources General Counsel Thomas Waldman, with cc to Assistant Attorney General Emily Adams, from January 26, 2018 to January 29, 2018, regarding the subject of "H.707 (Confidential Attorney-Client Communication)" including discussion of H.707's proposed prohibition on the use of the do not darken clause in settlement agreements involving claims of sexual harassment. However, I have determined that such record is exempt from public inspection and copying, as it represents a privileged attorney-client communication. See 1 V.S.A. § 317(c)(3), (4) (exempts "[r]ecords that, if made public pursuant to this subchapter, would cause the custodian to violate duly adopted standards of ethics or conduct for any profession regulated by the State" and "[r]ecords that, if made public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege other than the common law deliberative process privilege as it applies to the General Assembly and the Executive Branch agencies of the State of Vermont").

On July 28, 2022, you submitted an appeal based upon the delayed public records response, but have not yet since clarified any specific objection to the response provided by Assistant Attorney General Jacob Humbert on August 2, 2022.

I have considered your appeal and am denying it because Assistant Attorney General Jacob Humbert provided a responsive answer to your public records request on August 2, 2022. The withheld document is considered an attorney client communication that is privileged pursuant to Vermont Rules of Evidence 502, and thereby, exempt from production under 1 V.S.A. § 317(c)(3) & (4).

Please be advised that any person aggrieved by the denial of a request for public records may appeal to the Civil Division of the Superior Court pursuant to 1 V.S.A. § 319.

Sincerely,

/s/ Joshua R. Diamond  
Joshua R. Diamond  
Deputy Attorney General