

**TITLE 14
INDEPENDENT AGENCIES**

Subtitle 09 WORKERS' COMPENSATION COMMISSION

Chapter 09 Public Information Act Requests

Authority: Labor and Employment §9-309 (a), and State Government Article, §§10-611 through 10-628, Annotated Code of Maryland

.01 Scope.

This chapter sets out procedures under the Public Information Act for filing and processing requests to the Workers' Compensation Commission for the inspection and copying of public records of the Commission.

.02 Policy.

It is the policy of the Commission to facilitate access to the public records of the Commission, when access is allowed by law, by minimizing costs and time delays to applicants.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Act" means the Public Information Act, State Government Article, §§10-611 through 10-628, Annotated Code of Maryland.

(2) "Applicant" means a person or governmental unit that asks to inspect a public record.

(3) "Chairman" means the Chairman of the Workers' Compensation Commission.

(4) "Commission" means the Workers' Compensation Commission

(5) "Custodian" means an authorized individual who has physical custody and control of a public record of the Commission.

(6) "Official custodian" means an officer or employee of the State or of a political subdivision who, whether or not the officer or employee has physical custody and control of a public record, is responsible for keeping the public record.

(7) "Public record" means all papers, correspondence, forms, books photographs, photostats, films, microfilms, sound recordings, maps, drawings, or other written documents, regardless of physical form or characteristics.

(8) "Public record" includes all copies that have been made by the Commission or received by the Commission in connection with the transaction of public business and includes the salaries of all employees of the Commission.

(9) "Working day" means a day other than Saturday, Sunday, or a State holiday.

(10) "Written documents" means all books, papers, maps, photographs, cards, tapes, recordings, computerized records, and other documentary materials, regardless of physical form or characteristics.

.04 Chairman as Official Custodian.

Unless otherwise provided by law, the Chairman is the official custodian of the public records of the Commission.

.05 Who May Request Public Records.

Any person may request to inspect or copy public records of the Commission.

.06 Necessity for Written Request.

A. Inspection.

(1) Except as otherwise provided in this chapter, the custodian shall make public records of the Commission available for inspection by an applicant without demanding a written request.

(2) The custodian shall require a written request if the custodian reasonably believes that:

(a) The Act or any other law may prevent the disclosure of the public record to the applicant; or

(b) A written request will materially assist the Commission in responding.

B. Copies.

If the applicant requests one or more copies of any public record of the Commission, the custodian may require a written request.

.07 Contents of Written Request.

A written request shall:

A. Contain the applicant's name and address;

B. Be signed by the applicant; and

C. Reasonably identify, by brief description, the public record sought.

.08 Addressee.

A request to inspect or copy a public record of the Commission shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Chairman.

.09 Response to Request.

A. If the custodian decides to grant a request for inspection, the custodian shall produce the public record for inspection:

(1) Immediately; or

(2) Within a reasonable time period, not to exceed 30 days after the date of the request, if that period is needed to retrieve the public record and conduct any necessary review.

B. (1) If the custodian decides to deny a request for inspection:

(a) The custodian shall do so within 30 days after the request; and

(b) Immediately notify the applicant of the denial.

(2) If a request is denied, the custodian shall provide the applicant, at the time of the denial or within 10 working days, a written statement that gives:

(a) The reasons for the denial;

(b) The legal authority for the denial; and

(c) Notice of the remedies available for review of the denial.

C. If a requested public record is not in the custody or control of the person to whom application is made, that person shall, within 10 working days after receipt of the request, notify the applicant:

(1) That the person does not have custody or control of the requested public record; and

(2) If the person knows:

(a) The name of the custodian of the public record; and

(b) The location or possible location of the public record.

D. *With the consent of the applicant, any time limit imposed by §§A through C of this regulation may be extended for an additional period of up to 30 days.*

.10 Notice to and Consideration of Views of Person Potentially Affected by Disclosure.

- A. *Unless prohibited by law, the custodian may provide notice of a request for inspection or copying of any public record of the Commission to any person who, in the judgment of the custodian, could be adversely affected by disclosure of that public record.*
- B. *The custodian may consider the views of the potentially affected person before deciding whether to disclose the public record to an applicant.*

.11 Public Record Temporarily Unavailable.

If a requested public record of the Commission is in the custody and control of the person to whom application is made but is not immediately available for inspection or copying, the custodian shall promptly:

- A. *Notify the applicant that the public record is not immediately available; and*
- B. *Schedule a date within a reasonable time for inspection or copying.*

.12 Public Record Destroyed or Lost.

If the person to whom application is made knows that a requested public record of the Commission has been destroyed or lost, that person shall promptly:

- A. *Notify the applicant that the public record is not available; and*
- B. *Explain the reasons why the public record cannot be produced.*

.13 Review of Denial.

A. *If the custodian denies a request to inspect or copy a public record of the Commission, the applicant may, within 30 days after receipt of the notice of denial may file an appropriate action in the circuit court under Maryland Annotated Code, State Government §10-623.*

.14 Disclosure Against Public Interest.

A. *Denial Pending Court Order.*

(1) *If, in the opinion of the Chairman, disclosure of a public record of the Commission otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Chairman may temporarily deny the request to obtain a court order allowing nondisclosure.*

(2) *The temporary denial shall be in writing.*

B. *Circuit Court Review.*

- (1) *Within 10 working days after the denial, the Chairman shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.*
- (2) *Notice of the Chairman's complaint shall be served on the applicant in the manner provided for service of process by the Maryland Rules of Procedure.*

.15 Fees.

- A. *The fee schedule for copying and certifying copies of public records of the Commission is as follows:*
 - (1) *Copies.*
 - (a) *The fee for each copy made by a photocopying machine within the Commission is .50 cents per page.*
 - (b) *The fee for each copy made otherwise shall be based on the actual cost of reproduction.*
 - (2) *Certification of Copies. If a person requests that a copy of a public record be certified as a true copy, an additional fee of \$1 per page (or if appropriate, per item) shall be charged.*
- B. *Notwithstanding §A of this regulation, if the fee for copies or certified copies of any public record of the Commission is specifically set by a law other than the Act or this regulation, the custodian shall charge the prescribed fee.*
- C. *If the custodian cannot copy a public record within the Commission, the custodian shall make arrangements for the prompt reproduction of the record at public or private facilities outside the Commission. The custodian shall:*
 - (1) *Collect from the applicant a fee to cover the actual cost of reproduction; or*
 - (2) *Direct the applicant to pay the cost of reproduction directly to the facility making the copy.*
- D. *Before copying a public record of the Commission, the custodian shall estimate the cost of reproduction and either:*
 - (1) *Obtain the agreement of the applicant to pay the cost; or*
 - (2) *Demand prepayment of the cost.*
- E. *Except as provided in §F of this regulation, the custodian may charge a reasonable fee for time that an official or employee of the Commission spends:*

(1) *To search for requested public records; or*

(2) *To prepare public records for inspection and copying.*

F. *The custodian may not charge a search or preparation fee for the first 2 hours that an official or employee of the Commission spends to respond to a request for public records.*

G. *Waiver or Reduction of Fee.*

(1) *The official custodian may waive or reduce any fee set under this regulation if:*

(a) *The applicant requests a waiver; and*

(b) *The custodian determines that the waiver or reduction is in the public interest.*

(2) *The official custodian shall consider, among other relevant factors, the ability of the applicant to pay the fee.*

H. *If the applicant requests that copies of a public record be mailed or delivered to the applicant or to a third party, the custodian may charge the applicant for the cost of postage or delivery.*

.16 Time and Place of Inspection.

A. *An applicant may inspect any public record of the Commission that the applicant is entitled to inspect during the normal working hours of the Commission.*

B. *The inspection shall occur where the public record is located, unless the custodian, after taking into account the applicant's expressed wish, determines that another place is more suitable and convenient.*