
TOWN OF MILFORD BOARD OF SELECTMEN POLICY NO. 2023-01

TO : ALL DEPARTMENT HEADS, BOARDS, COMMISSIONS, COMMITTEES

FROM: LINCOLN DALEY, TOWN ADMINISTRATOR

SUBJ : RIGHT TO KNOW POLICY – POLICY NO. 2023-01

DATE: JUNE 12, 2023

At their meeting on Monday, 12 June 2023, the Milford Board of Selectmen adopted the following Policy concerning Right to Know requests:

Table Of Contents

Section 1.0 - Overview

- 1.1 [Purpose](#)
- 1.2 [Scope](#)
- 1.3 [Legal Definitions](#)

Section 2.0 – Requesting Information

- 2.1 [Requesting Information](#)
- 2.2 [Gathering and Organizing Information](#)
- 2.3 [Completing a Public Information Request](#)
- 2.4 [Applicable Costs](#)

Section 3.0 – Policy Changes

- 3.1 [How to Make Changes to This Policy](#)

Section 4.0 – Training Requirements

- 4.1 [Training Requirements](#)

References

- [State Contacts](#)
- [Judicial Appeals and Legal Escalations](#)

Addendum

- [Attachment 1: Milford Right to Know Request Form](#)
- [Attachment 2: Milford Right to Know Denial Form](#)

Section 1.0 – Overview

1.1.1 Purpose

This policy is intended to guide town personnel, individuals and entities to effectively and efficiently handle Right to Know requests and any requests for public information (requests do not need to reference NH RSA 91-A). This document serves as a guidance policy and is not to be considered a town ordinance or regulations of legal weight. It is recommended that all parties familiarize themselves with the actual law as written under NH RSA 91-A.

1.2 Scope

This policy and the subsequent NH state statutes apply to *Governmental Records* maintained by *Public Agencies* and *Public Bodies*. Specifically, to Milford, this would include but is not limited to, Milford NH governmental meetings, quasi-governmental meetings, committees, commissions, boards and town departments.

Information for Right to Know requests are only required to be provided to legal New Hampshire residents. Nothing in the law requires the Town to provide information to an out-of-state individual. See McBurney v Young, 569 U.S. 221 (2013), however requests from out-of-state individuals will be reviewed and analyzed on a case-by-case basis.

A reasonably good faith effort will be made to provide records for all right to know requests. In line with the spirit of NH RSA 91-A, governmental agents/agencies shall assist the Right to Know Requester as much as reasonably possible to reinforce trust, openness, and cooperation.

There are exemptions to the regulations in which information can be considered *Non-Public* and is not subject to release upon request. For further details on non-public exemptions please see NH RSA 91-A:3.

There are other exemptions including but not limited to, draft notes, attorney-client privilege communication, public safety information, school records of minors, and similar information. For further details on the allowable exemptions please see RSA 91-A:5.

1.3 Legal Definitions

"Committee" means any committee, subcommittee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority.

"Proceedings" means the transaction of any functions affecting any or all citizens of the state by a public body.

"Governmental records" means any information created, accepted, or obtained by, or on behalf of, any public body, or a quorum or majority thereof, or any public agency in furtherance of its official function. Without limiting the foregoing, the term "governmental records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by a quorum or majority of a public body in furtherance of its official function, whether at a meeting or outside a meeting of the body. The term "governmental records" shall also include the term "public records."

"Information" means knowledge, opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic, or other physical form.

For additional legal definitions please reference RSA 91-A:5

Section 2.0 – Obtaining Public Information

2.1 Requesting Information

RSA 91-A:4, I - “Every citizen during the regular or business hours of all public bodies or agencies, and on the regular business premises of such public bodies or agencies, has the right to inspect all governmental records in the possession, custody, or control of such public bodies or agencies, including minutes of meetings of the public bodies, and to copy and make memoranda or abstracts of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5.”

2.1.1 Requests for records that can be immediately released

- a. Requestors should first make a reasonable effort to find the information they seek on the Town website www.milford.nh.gov by using the Search feature. Past meeting minutes, meeting packets and meeting recordings can be found there. Additionally, information on town events, activities, projects and similar may also be found on the town website. When requested information is not directly accessible on the town website, the requestor should follow process below to request the information.

Records for immediate release are considered to already be available or easily accessible and currently meet or have met the requirements of RSA 91-A.

2.1.2 Request for records that require additional support and resources to provide

- a. All requests for information should be submitted to the Town Administrator’s Office in order to provide a single point of contact for requestors. (*Exception: Requests for public safety records are encouraged to be submitted to the Milford Police Records Division or the Milford Fire Department respectively.*) This process will allow the town to efficiently and effectively disseminate the request to all applicable parties with the intent of meeting the statutory timeframe for responding to the request.
- b. The completion of an application is not legally required to request public information, but it is highly recommended that the requesting party complete a request form – ([Milford NH Right to Know \(RTK\) Request Form](#)) for town employees to accurately provide timely information to requestors. See Attachment 2.

If the requestor does not complete the form, the department taking the request should do so on behalf of the requester, ensuring that the information that is being requested is clearly captured and understood to allow completion of the Right to Know Request.

- c. To confirm the accuracy of the request, and to start the timeline as outlined in RSA 91-A, it is highly recommended to have the requesting party sign and date the application before submitting it for processing of the request.

- d. Once an application and/or request has been officially received by the Milford NH Town Administrator's Office, the public body associated with the request has five business days to complete the said request, deny the request or provide a written statement of the time reasonably necessary to determine whether the request shall be granted or denied and the reason for the delay.

2.2 Gathering and Organizing Information

- a. Upon receipt of the request by the Milford NH Town Administrator's Office, a representative from said office shall forward the request as applicable to the department and agency associated with the requested information.
- b. Either the department associated with the Right to Know request or the Information Technology (IT) department, if determined to be the more effective resource, shall make every reasonable effort to search and collect all information within the scope of the request, including but not limited to archived information, information both on the digital servers and electronic storage devices, as well as information that may have been accidentally or unintentionally transferred between personal emails/accounts by public officials or staff, if there is reasonable evidence to assume such.
- c. When feasible, and beneficial to the requestor, information collected for the Right to Know request shall be provided to the requestor in its native format in which it was originally created. This will require no additional time or resources to convert documents and will provide all original information associated with the information that was requested and provided to the requestor. Native format files will provide file creation date, author, modification dates, date email was sent, original attachments to emails and other relevant data.
- d. Information gathered and produced by a town body shall be submitted to the Town Administrator's office to compile, provide the information to the requestor, and complete the Right to Know request.

2.3 Completing a Right to Know Request

- a. Information that has been gathered shall be organized and presented to the requestor, but it should be known that there is no legal obligation for the public body "to compile, cross-reference, or assemble information into a form in which it is not already kept or reported by that body or agency".
- b. Right To Know information can be provided in the following forms based on the most effective delivery method as it relates to the amount of information being requested.
 - 1. Printed on paper
 - 2. Emailed back to requestor: limited if requested files are too large to send
 - 3. Loaded onto a Universal Serial Bus (USB) Hard Drive or other removeable storage device.
 - 4. Post marked through USPS (which can incur cost to the requestor)
 - 5. Reference section 2.4 to see associated costs with each option, when applicable

- c. A log of Right to Know requests, which are not considered public safety requests associated with the fire department or police department, will be kept in a separate file in the Town Administrator's office along with the corresponding (completed) Right to Know request form.
- d. If the town is unable to make a governmental record available for immediate inspection and copying, the Town must, within 5 business days of a request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied (the Right to Know Form should be used for this purpose).

2.4 Applicable Costs

- a. If permitted by law, the individual requesting a copy of governmental records will be charged the actual cost of providing said copies or external media. No additional profits should be included by the town or governmental agency.
- b. Requests for information to be emailed, will be free of charge, unless extenuating circumstances cause the town to incur an unreasonable cost in which case, the cost will be transferred to the requestor.
- c. No cost or fee shall be charged for the inspection or delivery, without copying, of governmental records, whether in paper, electronic, or other form. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.
- d. In the same manner as set forth in RSA 91-A:4, IV, any public body or agency which maintains governmental records in electronic format may, in lieu of providing original records, copy governmental records requested to electronic media using standard or common file formats in a manner that does not reveal information which is confidential under this chapter or any other law. If copying to electronic media is not reasonably practicable, or if the person or entity requesting access requests a different method, the public body or agency may provide a printout of governmental records requested, or may use any other means reasonably calculated to comply with the request in light of the purpose of this chapter as expressed in RSA 91-A:1. Access to work papers, personnel data, and other confidential information under RSA 91-A:5, IV shall not be provided.

Section 3.0 – Policy Changes

3.1 How to make changes to this policy

- a. Proposed changes to this policy can be presented by the Town or the Public to the Board of Selectmen.
- b. Proposed changes shall be presented and/or discussed during a regularly scheduled Board of Selectmen's meeting (1st reading) and then presented at a subsequent meeting (2nd reading) for Public Input and Board of Selectmen approval.

Section 4.0 – Training Requirements

4.1 Training Requirements

- a. All current employees and committee members shall be trained on the Right to Know Policy within 90 days of the effective date of this policy.
- b. New employees and committee members shall be trained on the Right to Know policy as part of their new employee orientation.
- c. When the Right to Know policy is updated, all employees and committee members shall be notified and trained within 60 days of the policy update adoption.

Attachment 1:

Additional References

Overview of The Regulations

Below is an unofficial and unmaintained outline of the sections within NH RSA 91-A for reference. Please navigate to <http://www.gencourt.state.nh.us/rsa/html/vi/91-a/91-a-mrg.htm> for the most up-to-date information and any changes to the regulations.

RSA 91-A:1 Preamble

RSA 91-A:1-a Definitions

RSA 91-A:2 Meetings open to Public

RSA 91-A:2-a Communication Outside Meetings

RSA 91-A:3 Nonpublic Sessions

RSA 91-A:4 Minutes and Records Available for Public Inspection

RSA 91-A:5 Exemptions

RSA 91-A:5-a Limited Purpose Release

RSA 91-A:6 Employment Security

RSA 91-A:7 Violation

RSA 91-A:8 Remedies

RSA 91-A:9 Destruction of Certain Information Prohibited

RSA 91-A:10 Release of statistical Tables and Limited Data Sets for Research

Additional References

State contacts

- a. **New Hampshire's Right to Know organization**; Established in 2013, Right to Know NH (RTKNH) is a nonprofit, nonpartisan citizen coalition working to improve access to New Hampshire state, county, and local governments. The organization advocates to strengthen New Hampshire state laws, particularly the Right to Know law known as RSA 91-A, as well as Right to Know governmental policies. The organization also serves as a resource on Right to Know in New Hampshire, with the goal of making government more open and transparent and educating citizens on their Right to Know and aiding them in exercising their rights under the law. Finally, RTKNH educates public officials on improving their adherence to the law and delivering greater government transparency to their constituents.
 - a. <https://righttoknownh.wordpress.com/>
- b. **New Hampshire Municipal Association** – The NH Municipal Association provides guidance to NH cities and towns on Right to Know Laws and Regulations.
 - a. <https://www.nhmunicipal.org/>
- c. **NH Attorney General** – The NH Attorney General has provided a Memorandum on New Hampshire's Right to Know law, RSA 91-A. Milford NH shall ensure this Memorandum is available to all employees, board, and committee members to ensure Right to Know Requests comply with the Attorney General's Memorandum.
 - a. <https://www.doj.nh.gov/>
 - b. <https://www.doj.nh.gov/civil/documents/right-to-know.pdf>

Judicial appeals and legal escalations

- a. NH Superior Court – Right to Know violations may be appealed to the NH Superior Court.
 - a. <https://www.courts.nh.gov/our-courts/superior-court>
- b. NH Supreme Court - Right to Know violations that fail at the NH Superior Court may be appealed to the NH Supreme Court. The Statute provides an immediate remedy in Superior Court, where the case is given “high priority on the court calendar.” RSA 91-A:7 A Superior Court ruling on a petition for access is deemed a final judgment, which may be appealed as of right to the New Hampshire Supreme Court. An appeal must be filed within thirty days of the date on the clerk's written notice of the decision on the merits.
 - a. <https://www.courts.nh.gov/our-courts/supreme-court>
- c. Ombudsman office: As an **alternative** to filing a petition in court, a citizen may file a written complaint with the office of the Right to Know ombudsman. The ombudsman will then require the public body/agency to provide an answer to the

Additional References

complaint within 20 days citing any justifications for their refusal to or delay in producing the requested governmental records, access to meetings open to the public, or otherwise comply with the provisions of the Right to Know Law (RSA 91-A).

Right to Know Request Form

Pursuant to the Right to Know Law (NH RSA 91-A), I am requesting public access, within five business days, to the governmental records reasonably described as follows.

Name of the Public Body associated with request

Describe the records sought with enough detail for the public agency to respond.

Timeframe in question

From / / To / /
Month Day Year Month Day Year

Person Making the Request:

Name: _____
(Print)

Phone: _____ Email: _____

(optional)

Signature of Requestor:

Date: _____

For town hall employees only

Name of Governmental Agent: _____ (Print)

Signature of Governmental Agent: _____ Date: _____

If requested information is available; I have chosen to receive it by

☐ A link to a web address of online directory has been provided

☐ Printed physical copy (Fees can apply)

☐ Digital copy loaded on TOWN PROVIDED USB Hard Drive (Fees can apply)

☐ Digital copy loaded on PERSONAL USB Hard Drive (Preferred choice for large requests)

Note: Said USB drive will be fully formatted by IT for security purposes

☐ Digital copy E-Mailed to me at the contact listed above (Size limited)

☐ Physically inspect applicable documents at a town of Milford facility

☐ Sent to me via U.S.P.S. mail to:

(Fees can apply)

The undersigned has acknowledged that their request has been completed in full and they are in receipt of the requested information upon signing this acknowledgment.

Signature of Receiver: _____ **(sign)**

Date: _____

Attachment 3:

Milford NH Right to Know Denial Form

If the Right to Know request cannot be carried out, the reasons for such must be documented and provided back to the requestor within 5 business days. Unless the requestor was asking for “statistical tables and limited data sets for research”, as referenced under RSA 91-A:10, then a window of 10 days is allotted for a denial.

Note: For legal denial references, please see NH RSA 91-A:3 for nonpublic exceptions and NH RSA 91-A:5 Exceptions. Any other reasonably interpreted state or federal law should also be referenced as applicable.

Reference to Original Request (Brief statement referencing original request)

Reason for Denial

For town hall employees only

Name of Governmental Agent:

_____ (Print)

Signature of Governmental Agent: _____ Date: _____