

Filing Public Records Requests Against Non-Profit Corporations in North Carolina

A Guide for Legal Practitioners and Community Members

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Under N.C. Gen. Stat. § 132-1(b), “the public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law.” The term “public record” is defined as “all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.” N.C. Gen. Stat. Ann. § 132(1)(a) (2012).

So while an organization may be a non-profit corporation, in some cases it can be considered an agency of the government for purposes of North Carolina’s public records statute. *News & Observer Pub. Co. v. Wake Cnty. Hosp. Sys., Inc.*, 55 N.C. App. 1, 11 (1981). *News & Observer Pub. Co. v. Wake Cnty. Hosp. Sys., Inc.* ruled that the nature of the relationship between a non-profit corporation and the County determines if the non-profit corporation is an “agency of North Carolina government.” To prove the County exercises supervisory responsibilities and control, you should look to the non-profit corporation’s Articles of Incorporation and Lease. The Articles of Incorporation are available at the [North Carolina Secretary of State website](#). The Lease is recorded at the County Records Office.

Once you determine that a non-profit corporation or any other entity you want public records from is an agency of the government, you must follow steps to request the public records.

Step 1: Send the “custodian” a public records request in the form of a letter. This letter must state how you would like to receive the public records, either by mail or electronically. The letter should also define what records you are actually requesting, rather than just asking for all the records concerning a certain matter. For example, a request could ask for “any and all written communications in any form, including all notes and log entries.”

Step 2: If the records request is denied, ask the custodian why it was denied.

Step 3: If the custodian is relying on an exemption, ask her to release the nonexempt portions of the record with the exempt portions removed or redacted

Step 4: File a civil action against the agency to compel disclosure. These actions are given priority. "However, in order for the court to have jurisdiction to issue an order compelling the production of public

records, the requesting party must initiate mediation of the dispute through the court. See N.C. Gen. Stat 132-9(a); see also N.C. Gen. Stat. 7A-38.3E9(b).

The custodian of the records is the official in charge of an office that holds the public records. When you make a public records request, your letter should be sent to a person in charge of maintaining the public records and the City Clerk's office. You can Google who the City Clerk is for the County you are making the public records request in.

For more information on making a public records request, visit the following websites:

<http://www.dmlp.org/legal-guide/access-public-records-north-carolina>.

http://www.sog.unc.edu/sites/www.sog.unc.edu/files/public_records_overview.pdf.