

**PUBLIC ACCESS TO RECORDS OF
BUFFALO NIAGARA CONVENTION CENTER
MANAGEMENT CORPORATION**

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Section 1 Purpose and scope:

- (a) These regulations provide information concerning the procedures by which records may be obtained from the Buffalo Niagara Convention Center Management Corporation ("Corporation") pursuant to the New York State Freedom of Information Law (Article 6 of the Public Officers Law).
- (b) Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.

Section 2 Designation of records access officer:

- (a) The Board of Directors of the Corporation is responsible for insuring compliance with the regulations herein, and designates the following person(s) as Records Access Officer:

Thomas Beiter, Controller
Buffalo Niagara Convention Center
One Convention Center Plaza
Buffalo, NY 14202
- (b) The Records Access Officer is responsible for insuring appropriate agency response to public requests for access to records. The designation of a Records Access Officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

The Records Access Officer shall insure that agency personnel:

- (1) Maintain an up-to-date subject matter list.
- (2) Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.
- (3) Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.
- (4) Upon locating the records, take one of the following actions:
 - (i) Make records available for inspection; or,
 - (ii) Deny access to the records in whole or in part and explain in writing the reasons therefor.
- (5) Upon request for copies of records:
 - (i) Make a copy available upon payment or offer to pay established fees, if any, in accordance with Section 8; or,
 - (ii) Permit the requester to copy those records.
- (6) Upon request, certify that a record is a true copy; and
- (7) Upon failure to locate records, certify that:
 - (i) The Corporation is not the custodian for such records, or
 - (ii) The records of which the Corporation is a custodian cannot be found after diligent search.

Section 3 Location:

Records shall be available for public inspection and copying at:

Buffalo Niagara Convention Center
One Convention Center Plaza
Buffalo, NY 14202

Section 4 Hours for public inspection:

Requests for public access to records shall be accepted and records produced during all hours regularly open for business.

These hours are:

Monday through Friday, 8:30 am until 5 pm

Section 5 Requests for public access to records:

- (a) A request for records shall be submitted in writing in person or via United States mail addressed to Thomas Beiter, Buffalo Niagara Convention Center, One Convention Center Plaza, Buffalo, NY 14202 or by electronic mail, addressed to tom@buffaloconvention.com or facsimile to 716-855-3158.
- (b) If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.
- (c) A response shall be given within five business days of receipt of a request by:
 - (1) informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;
 - (2) granting or denying access to records in whole or in part;
 - (3) acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or
 - (4) if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.

- (d) In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.
- (e) A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:
 - (1) fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;
 - (2) acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;
 - (3) furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;
 - (4) fails to respond to a request within a reasonable time after the approximate date given or within twenty business days after the date of the acknowledgment of the receipt of a request;
 - (5) determines to grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;
 - (6) does not grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or
 - (7) responds to a request, stating that more than twenty business days is needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

Section 6 Subject matter list:

- (a) The Records Access Officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to subdivision two of Section Eighty-Seven of the Public Officers Law.
- (b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- (c) The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

Section 7 Denial of access to records:

- (a) Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the individual designated to determine appeals, who shall be identified by name, title, business address and business phone number ("Appeal Officer").
- (b) The following person is designated as the Corporation's Appeal Officer and shall determine appeals regarding denial of access to records under the Freedom of Information Law and these regulations:

Mr. Paul Murphy
General Manager
Buffalo Niagara Convention Center
Convention Center Plaza
Buffalo, NY 14202
716-855-5544

- (c) Any person denied access to records may appeal within thirty days of a denial by filing with the Appeal Officer a written appeal identifying:
 - (1) the date and location of requests for records;
 - (2) a description, to the extent possible, of the records that were denied; and
 - (3) the name and return address of the person denied access.
- (d) The Appeal Officer shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government
Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231

- (e) The Appeal Officer shall provide to the appellant and the Committee on Open Government a written determination concerning such appeal, by either granting access to the requested documents or explaining the reasons for the continued denial, within ten business day of receipt of the appeal. A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.
- (f) The Appeal Officer shall inform the appellant and the Committee on Open Government of its determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth subdivision (f) of this section.

Section 8 Fees:

- (a) There shall be no fee charged for:
 - (1) inspection of records;
 - (2) search for records; or
 - (3) any certification pursuant to this part.
- (b) Fees for copies may be charged, provided that:
 - (1) the fee for copying records shall not exceed 25 cents per page for photocopies not exceeding 9 by 14 inches;
 - (2) the fee for photocopies of records in excess of 9 x 14 inches shall not exceed the actual cost of reproduction; or
 - (3) the Corporation has the authority to redact portions of a paper record and does so prior to disclosure of the record by making a photocopy from which the proper redactions are made; or
 - (4) the actual cost of reproduction by means other than photocopying.
- (c) The fee the Corporation may charge for a copy of any other record that is based on the actual cost of reproduction may include only the following:
 - (1) an amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and
 - (2) the actual cost of the storage devices or media provided to the person making the request in complying with such request; or

- (3) the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.
- (d) When the Corporation has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, it shall retrieve or extract such record or data electronically. In such case, the Corporation may charge a fee in accordance with paragraph (c)(1) and (2) above.
- (e) The Corporation shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.
- (f) The Corporation may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.
- (g) The Corporation may waive a fee in whole or in part when making copies of records available.

Section 9 Public notice:

A notice containing the title or name and business address of the Records Access Officers and Appeal Officer and the location where records can be seen or copies shall be posted in a conspicuous location wherever records are kept.

Section 10 Severability:

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

YOU HAVE A RIGHT TO SEE PUBLIC RECORDS

The amended Freedom of Information Law, which took effect on January 1, 1978, gives you the right of access to many public records.

Buffalo Niagara Convention Center Management Corporation has adopted regulations governing when, where, and how you can see public records.

The regulations can be seen at all places where records are kept. According to these regulations, records can be seen and copied at:

Buffalo Niagara Convention Center
One Convention Center Plaza
Buffalo, NY 14202

The following officials will help you to exercise your right to access:

1. Agency officials who have in the past been authorized to make records available
2. Records Access Officer

Thomas Beiter
Controller
Buffalo Niagara Convention Center
One Convention Center Plaza
Buffalo, NY 14202
716-855-5558

If you are denied access to a record, you may appeal to the following person(s) or body:

Mr. Paul Murphy
General Manager
Buffalo Niagara Convention Center
Convention Center Plaza
Buffalo, NY 14202
716-855-5544