



October 2, 2026

Erin Sobkowski
Division of Human Rights

Re: Updating the Division of Human Rights (DHR) Regulations on FOIL and Records Access to Align with Best Practices for Transparency and Open Data

Dear Ms. Sobkowski,

We write to provide comments on the [proposed amendment to Section 466.7 of Title 9 NYCRR](#) and request that you update and modernize the rules to fully reflect New York State's stated commitment to proactive disclosure, open government, and open data. Specifically, we ask that you amend the regulations to accomplish the following three goals:

1. **Align the regulations with the Committee on Open Government's [Model Freedom of Information Law \(FOIL\) Rules for Agencies](#).** These model rules emphasize the public's right to access records and include complete information regarding records requests that fully align with FOIL's requirements.
2. **Explicitly require proactive disclosure of information consistent with the "Open Data" Executive Order 95 of 2013.** Currently, DHR does not publish any data on New York's open data portal. We urge DHR to continuously work to increase proactive disclosure of commonly requested records on its website and data.ny.gov. The regulations should also explicitly acknowledge New York State's official philosophy on transparency, per the legislative declaration of FOIL.
3. **Recognize that New York's people and government overwhelmingly conduct business using digital communication and the internet – not paper.** FOIL has been amended in recent years to recognize electronic means of communication and receipt of information, including appeals, which should be reflected in the regulations, as provided by COOG's model rules.

More detailed comments are provided for individual sections of the draft regulations below.

466.7(a)(1) Subject matter and employee lists

- **Recommendation:** The regulations should incorporate language from Section 1 of COOG's model rules regarding the people's right to know. The regulations currently cite Executive Law § 94 and Article Six of Public Officers Law, known as the Freedom of

Information Law, but should include a ‘Purpose and Scope’ section that emphasizes that FOIL shall be construed in favor of the widest possible availability of public records:

- *“The people’s right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.”*
- **Recommendation:** This section should also address DHR’s commitment to publish data, consistent with [Executive Order 95 of 2013](#), “Using Technology to Promote Transparency, Improve Government Performance and Enhance Citizen Engagement,” which created [data.ny.gov](#). The regulations repeat what information is required to be posted on the Division’s website pursuant to Public Officers Law but should also reference the data to be published on [data.ny.gov](#). The emphasis should be on proactive disclosure of information by using FOIL requests as a guide to understand what records the public wants to see. By publishing commonly requested public records online, DHR can reduce its FOIL caseload.

466.7(a)(2) Copy and inspection of division records

- **Recommendation:** DHR should use language from COOG’s model rules regarding public notice, and pursuant to FOIL should accept requests for records submitted by email in addition to its online form.
- **Recommendation:** Section 466.7(a)(2)(iv)(b) should explicitly state that the reason for denial of a request must be in writing and that any request determination must advise the requester of the right to appeal to the body established to determine appeals, which should be identified by name, title, business address, email address, and phone number.
- **Recommendation:** The regulations should clarify that any failure of the records management officer to comply with the listed time limitations constitutes a denial of the request that may be appealed, as detailed in Section 5 of COOG’s model rules:
 - *“A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed.”*
- **Recommendation:** This section should emphasize more recent amendments to FOIL, such as those provided in Section 8 of COOG’s model rules, including:
 - *“When an agency 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, the agency shall be required to retrieve or extract such record or data electronically.”*
- **Recommendation:** Instead of simply stating that the records management officer will provide an approximate date when the request will be granted or denied, DHR should clarify the factors that contribute to this determination, in alignment with Section 2 of COOG’s model rules:
 - *“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.”

466.7(a)(4) Appeal of denial of record

- **Recommendation:** The Division should accept appeals electronically through GovQA, the same portal through which requests can be initially submitted, in addition to email. The regulations should clarify that any request determination must include information about all of the methods by which requesters can appeal.
- **Recommendation:** DHR should align its regulations with Section 7 of COOG’s model rules by providing greater detail about the right to appeal, the content of the appeal, and the role of COOG in appeals, as well as a clarification that failure to respond within ten days constitutes a denial:
 - *“The time for deciding an appeal by the individual or body designated to determine appeals shall commence upon receipt of a written appeal identifying:*
 - *the date and location of requests for records;*
 - *a description, to the extent possible, of the records that were denied; and*
 - *the name and return address of the person denied access.”*
 - *“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.”*
 - *“The person or body designated to determine appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals.”*
- **Recommendation:** The regulations should require DHR to publish on its website the name and phone number for its appeals officer, not just the business address and email address.

466.7(a)(5) Designation of records management officer

- **Recommendation:** The regulations should require DHR to publish on its website the name, title, phone number, and email address for its records management officer, not just the business address.
- **Recommendation:** The regulations should include a more detailed description of the records management officer’s duties, similarly to Section 2 of COOG’s model regulations. The regulations should clarify that the records management officer is responsible for ensuring that agency personnel:
 - *“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.”*
 - *“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.”*

The above recommendations will bring DHR's FOIL regulations in line with FOIL's requirements, maximize public access to records, and encourage greater transparency within the agency.

Thank you for your consideration.