



Public Records Request Mediation Guide

Questions? Contact the PEC:

(510) 238-3593

Oakland City Hall, Room 104

EthicsCommission@oaklandca.gov

What is a public record? A public record is any writing or recording that contains information about the conduct of the public's business, including those stored in electronic form (such as emails). State and local law provide the right for the people to inspect and obtain copies of public records, unless those records, or information in the records, are confidential. Examples of confidential records include those containing personal information like a social security number, those relating to an ongoing investigation, or attorney-client communications. Confidential records might be partially redacted or withheld entirely.

Who may request mediation? Any person whose request to inspect or copy public records has been denied, delayed, or not completely fulfilled, may request mediation of their request through the Public Ethics Commission (PEC).

What does the mediation process look like? The PEC is responsible for conducting mediation. PEC staff will try to begin mediation within 10 days of receiving your request; however, due to high demand for PEC staff resources, many mediations begin later than 10 days after the request is made. The mediator (a PEC Commissioner or staff member) will conduct most communication between the parties by phone or email, and will aim to resolve the dispute to the mutual satisfaction of both parties. The mediator's recommendations are not binding on any party.

What is the difference between filing a mediation request and filing a complaint? The purpose of filing a mediation request is to have the PEC assist you in obtaining any records to which you are legally entitled. The purpose of filing a complaint is to have the PEC's Enforcement Unit investigate any potential violations of our local public records law; it is not necessarily meant to obtain any records you are requesting.

Do I have to participate in mediation before I can file a complaint or take legal action? Yes. A requestor who alleges an incomplete or untimely response to their public records request, must first participate in mediation before filing a complaint with the PEC or seeking a court order.

How long does mediation take? There is no legal deadline for when a mediation must end. Because the mediator cannot force an agency to release records, the length of the mediation depends upon the amount of cooperation received. Some mediations are completed within a few weeks, while others can go on longer than that.

Can I end the mediation myself? Yes, you may withdraw from the mediation process at any time. At that point, you may file a complaint with the PEC or seek a court order – but if you end the mediation, the PEC will no longer work to produce the records you are seeking. To withdraw your mediation request, please notify PEC staff in writing.

What if the mediation is unsuccessful? If the mediator is unable to resolve the dispute and determines that future mediation is unlikely to produce additional records, the mediator will notify both parties that they are closing the mediation and explain why. A final report regarding the mediation will be provided to the Public Ethics Commission at its next public meeting. You will be informed of that report in advance of the Commission's meeting and will have the opportunity to make a public comment at the meeting. You may then file a complaint with the PEC to investigate alleged violations of our local public records law, or seek a court order. Note: the PEC has no authority to impose fines for Sunshine violations.

How do I request mediation? Please complete both sides of the attached Request for Mediation form, and submit the form and any attachments to the Public Ethics Commission by email, mail, or fax via the contact information below.



Request for Mediation of Public Records Request

Staff Initials: _____

Request #: _____

If you would like to submit a request for mediation to help you obtain public records that you requested from a City employee or official, please complete this form. This form becomes a public record available for inspection and copying by the public, along with any documents submitted with this form. A copy of this request also will be provided to the persons identified in the allegations below. For more information about the Public Ethics Commission's mediation process, see the [Oakland Sunshine Ordinance \(Oakland Municipal Code Chapter 2.20\)](#). Please contact the PEC with any questions you may have about mediation. The PEC's contact information can be found at the end of this form.

Contact Information of Person Making Request:

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Email: _____

Description of Request. Please complete the lines below and/or provide an attachment with the following details:

- **What records are you seeking?** Please include your RecordTrac request number, if known.

- **From whom are you seeking the records?** Please include the employee's name, and any known title, department, phone number, email address, etc.

- **Why are you seeking mediation?** Please describe the problem(s) you have encountered, and the outcome you are seeking.

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- Additional information or documentation that might aid in the mediation. Please include copies of such documentation and list them here.

Verification. I certify under penalty of perjury under the laws of the State of California that my above and attached statements are true and correct.

Adrien Salzberg

(Signature)

Executed on _____ at _____
(Date) (City, State)

Request Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov
Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612
Phone: (510) 238-3593
Fax: (510) 238-3315