

From: [Adams, Emily](#)
To: [Brad Fredericks](#)
Subject: Response to 11/22 Public Records Request to AGO
Date: Thursday, December 8, 2022 3:57:00 PM
Attachments: [2022-12-08 Adams to Fredericks PRR Response.pdf](#)

Dear Mr. Fredericks-

Please see attached correspondence in response to your public records request.

Best,
Emily

Emily Chamberlain Adams (she/her/hers)
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109 STATE STREET
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December 8, 2022

Brad Fredericks

VIA EMAIL ONLY - [REDACTED]

Re: November 22, 2022 Public Records Request

Dear Mr. Fredericks:

I am writing in response to your November 22, 2022 Public Records Request to the Vermont Attorney General's Office (AGO) in which you requested:

- EEOC letter dated September 7, 2022 for Charge NO. 523-2022-01027 concerning Vermont Associates for Training and Development;
- Emails concerning EEOC Charge NO. 523-2022-01027 sent or received between September 1, 2022 and present;
- Emails referencing Vermont Associates for Training and Development, A4TD, or Vermont Associates, sent or received between September 1, 2022 and present;
- Emails concerning the Senior Community Service Employment Program (SCSEP) grant sent or received between September 1, 2022 and present.

This request is governed by Vermont's Public Records Act (PRA), 1 V.S.A. §§ 315-320. By letter dated November 29, the AGO notified you that pursuant to the PRA, it was seeking an extension of time to search for responsive records and determine whether they were subject to public disclosure.

For the reasons stated below, we are unable to produce any responsive documents to you at this time.

I. Records Deemed Confidential by Law.

The PRA states that certain categories of records are exempt from public inspection or copying. *See generally* 1 V.S.A. § 317(c) (listing exemptions). These categories include “(1) Records that by law are designated confidential or by a similar term [and] (2) Records that by law may only be disclosed to specifically designated persons.” *Id.*, § 317(c)(1)-(2).

Your reference to an EEOC file number in your first two requests indicates the matter at issue concerns employment discrimination. Vermont law requires that records and information obtained by the AGO in connection with an employment discrimination investigation be designated confidential. *See* 21 V.S.A. § 495b (incorporating by reference 9 V.S.A. § 2460). Pursuant to Section 2460, such materials and information remain confidential absent (1) a court order; or (2) consent of the party providing the information. *See* 9 V.S.A. § 2460(a)(4). At this time, you have not presented us with a court order, or the consent of any person involved in any employment discrimination investigation.

Likewise, EEOC investigative files are considered confidential under federal law prior to the filing of a lawsuit. *See* 42 U.S.C.A. § 2000e-5.

Because records relating to EEOC or AGO employment investigations are designated confidential by law, the PRA exempts them from public disclosure.

II. Internal AGO Correspondence and Notes.

The PRA also exempts from public inspection and copying:

(3) Records that, if made public pursuant to this subchapter, would cause the custodian [of records] to violate duly adopted standards of ethics or conduct for any profession regulated by the State.

(4) Records that, if made public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege other than the common law deliberative process privilege as it applies to the General Assembly and the Executive Branch agencies of the State of Vermont.” 1 V.S.A. § 317(c)(3)-(4).

The AGO likewise did not produce any AGO notes or internal AGO communications or documents. Such materials are confidential work product and subject to the attorney-client privilege. Because the above PRA exemptions apply to such records, the AGO is producing any such materials.

III. Confidential Communications with DAIL.

Finally, the AGO did not produce any records reflecting confidential communications with Vermont’s Department of Aging & Independent Living (DAIL). Because the AGO serves as legal counsel to the State of Vermont (including its government agencies or departments), such records constitute confidential work product and attorney-client privileged communications, and the above PRA exemptions apply to such materials as well.

Please be aware that SCSEP grants are administered by DAIL, a division of Vermont's Agency of Human Services (AHS). That department may have additional responsive information. Public records requests to AHS should be directed to Diane Irish, Public Records Officer, at diane.irish@vermont.gov or 280 State Drive, Waterbury, VT 05671-2010, attn Diane Irish.

Further, should you wish to submit a public records request to the EEOC, such request can be directed to their FOIA portal [here](#).

You may appeal this decision with Acting Deputy Attorney General Robert McDougall in this office.

Sincerely,

/s/ Emily Chamberlain Adams
Assistant Attorney General