

PUBLIC RECORDS EXCEPTION REVIEW CHECKLIST

Revised 11/16/21

A. Whether the record protected needs to be collected (Conclusion of committee of jurisdiction?)	
B. The value to the agency or official or to the public in maintaining the record (Conclusion of committee of jurisdiction?)	
C. Whether federal law requires the record to be confidential	
Does the proposed exception meet one or more of the following (D, E, F, G or I)	
D. Whether the proposed exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in disclosure	
E. Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records	
F. Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest substantially outweighs the public interest in the disclosure of records	
G. Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records	
H. Whether the proposed exception is as narrowly tailored as possible (<i>applies in all reviews</i>)	
I. Any other criteria that assist the review committee in determining the value of the proposed exception as compared to the public's interest in the record protected by the proposed exception	
<p>NOTE: 5 MRSA §95-C, sub-§1, ¶C provides that records of archival value that are transferred to the Maine State Archives for permanent retention lose their confidential status, even if the statute designates such records as confidential, when they have been in existence for 75 years.</p>	
<p><i>If the proposed exception creates broad confidentiality for an entity: 2-A. Accountability review of agency or official.</i> In evaluating each proposed public records exception, the review committee shall, in addition to applying the criteria of subsection 2, determine whether there is a publicly accountable entity that has authority to review the agency or official that collects, maintains or uses the record subject to the exception in order to ensure that information collection, maintenance and use are consistent with the purpose of the exception and that public</p>	
<p>2-B. Accessibility of public records. In reviewing and evaluating whether a proposal may affect the accessibility of a public record, the review committee may consider any factors that affect the accessibility of public records, including but not limited to fees, request procedures and timeliness of responses.</p>	