

SUGGESTED SUBPOENA HANDLING PROCEDURES

Before implementing a 'Subpoena Handling Procedure' at your organization, legal advice and review should be coordinated to assure that the procedure meets any legal requirements of your state law. There are differences between Federal, State, and Municipal Courts, and an incorrect procedure can change the effect and results.

1. RECEIPT OF SUBPOENAS:

Upon receipt of a subpoena, a copy should be immediately forwarded to the organization office (Attention: _____); and wait for instructions. At that same time, the organization should commence the process of collecting all records requested in the subpoena as soon as possible. All staff should be told not to discuss the subpoena or its contents.

CEOs should consider contacting a local attorney who can then advise and instruct the organization on how to respond, document, and meet the subpoena requirements.

2. NOTICE TO PARTIES:

In the event that the subpoena requests any employment records, personnel records, or even documents (such as accident reports) which identify members or other individuals by name, address, or telephone numbers, a notification will be immediately sent by the organization to such persons whose employment or personnel records are sought or who are otherwise identified in the records to be produced.

Warning: Any process server should not be dealt with, rather refer the server or request directly to the CEO (or their designated contact person). Ask that the CEO be notified ASAP by telephone.

WHERE THERE HAS BEEN AN OCCURRENCE/ACCIDENT, NO STATEMENT OR INFORMATION SHOULD BE GIVEN TO ANYONE: REFER ALL REQUESTS TO THE CEO.

3. CHARGES FOR PRODUCTION OF RECORDS:

As indicated above, the organization should immediately commence the process of gathering all requested documents after receiving the subpoena. Time expended in the collection of those records should be personally tracked, as the requesting party may be billed for such services (subject to local and state laws). Additionally, there should be a compilation of all copies reproduced.

It may be permitted for your organization to charge for time spent in locating, compiling, copying, and forwarding those records. Additionally, each page of standard production may be charged. The total charges should be carefully tracked.

4. PRODUCTION OF RECORDS:

Having sent notice to any affected persons as set forth in section 2, above, the organization shall wait until the [15th day] after receipt of the subpoena before forwarding the records to the requesting party (via certified mail-return receipt requested). However, it is recommended that the organization first contact the requesting party after all of the records have been received by it and the charges compiled. The requesting party may be required to pay such costs before the records are forwarded. Upon receipt of such money, the records may be forwarded by certified/regular mail to the requesting party.

The production of such records assumes that there is no objection made by the affected parties in response to the notice sent to that party (as reflected by the attached sample letter.) If, however, an affected party objects to the production of those records, the organization should promptly notify the attorney issuing the subpoena of such objection and respond in writing that the organization will respect that objection until further notice or order from the court is received.

5. OUTSIDE PHOTOCOPY SERVICE:

On occasion, plaintiff's counsel may send to the organization an outside photocopy service to reproduce the records. If the organization has no objection to such outside photocopy service on its premises in lieu of its own reproduction of the records, it should follow the same process of compiling the records.

6. PRODUCTION OF WITNESS:

On occasion, a custodian of records will actually be required to appear at a formal deposition. If so, the same procedure regarding the production of records shall be followed, with the single exception that the records shall not be sent by mail. Rather, on the date designated in the subpoena, the custodian of records for the organization shall be made available for the scheduled deposition, producing the records at that proceeding.

This information is for example purposes only and should be used without prior professional and legal advice.