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**COMMENTS ON PROPOSED RI DEPARTMENT OF TRANSPORTATION
REGULATIONS GOVERNING ACCESS TO PUBLIC RECORDS
July 2018**

The ACLU of Rhode Island commends the Department for making some revisions to these proposed APRA regulations since they were first proposed earlier this year. We appreciate that the agency considered and took into account some of the earlier testimony that was provided, including comments relating to the fees charged requesters, and revised this proposal accordingly.

However, we wish to once again urge amendments to what is now Section 6.6, “Costs,” to offer a greater ability for the Department to reduce the potential fees associated with fulfilling open records’ requests that are in the public interest.

Specifically, we again suggest the addition of a sentence that tracks the language in APRA relating to *court* determinations of fee waivers or reductions, and specify that the *agency* may reduce or waive copy, search and retrieval costs if the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. See R.I.G.L. §38-2-4(d).

At the very least, as an alternative, we urge an amendment to Section 6.6(E) so that the fees for requests that take more than ten hours of research and retrieval time can be reduced, just as those involving less time can be waived or reduced under Section 6.6(A). Detailed APRA requests may be more time-intensive, but they also may be more in the public interest. If they meet the standard of §38-2-4(d), a reduction of the costs should be considered without requiring the requester to go to court. As 6.6(E) is worded, however, the agency *must* charge all costs incurred.

Once again, we applaud the Department for giving consideration to our earlier testimony in revising this proposal. However, if the continued suggestions we have made are not adopted, we request that, pursuant to R.I.G.L. §42-35-2.6, you provide us with a statement of the reasons for not accepting these arguments. Thank you.

Submitted by: Steven Brown, Executive Director