

63G-2-405 Confidential treatment of records for which no exemption applies.

- (1) A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:
 - (a) there are compelling interests favoring restriction of access to the record; and
 - (b) the interests favoring restriction of access clearly are greater than or equal to the interests favoring access.
- (2) If a governmental entity requests a court to restrict access to a record under this section, the court shall require the governmental entity to pay the reasonable attorney fees incurred by the lead party in opposing the governmental entity's request, if:
 - (a) the court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and
 - (b) the court denies confidential treatment under this section.
- (3) This section does not apply to records that are specifically required to be public under statutory provisions outside of this chapter or under Section 63G-2-301, except as provided in Subsection (4).
- (4)
 - (a) Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.
 - (b) Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.

Amended by Chapter 377, 2012 General Session