

# ACLU claims DPS violated advance public notice rules

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**By PBN Staff** PROVIDENCE – The Rhode Island affiliate of the American Civil Liberties Union filed suit against the state Department of Public Safety, claiming it violated advance public notice rules last month.

The [DPS](#) issued public notice of proposed revisions to the Access of Public Record Act regulations, but proposed a new set of amendments at the public hearing, "leaving the ACLU and other interested group unable to provide meaningful testimony on the proposal," the group said on Tuesday.

"The bait-and-switch approach used by DPS completely undermines the whole point of requiring advance public notice of rule-making activities and should not be allowed to stand," said Rhode Island ACLU Executive Director Steven Brown.

The suit was filed in R.I. Superior Court by volunteer attorney Jennifer Azevedo, saying the DPS violated state law, the Administrative Procedures Act, which says an agency must issue proposed rules for review and comment 30 days in advance of their adoption.

Azevedo said that "significantly [amending] those regulations merely moments before the close of the public comment period violates not only the letter of the law but its intention as well: to provide members of the public with a reasonable opportunity to review and remark on those proposals."

In the news release, the ACLU claimed the DPS did something similar in November 2010. The group said the DPS proposed to adopt regulations establishing its procedures for implementing the state's Access to Public Records Act, but, at the public hearing, the agency announced to those in attendance that a revised set of proposed regulations would be the subject of the hearing.

The revised proposal was "significantly different" – the ACLU said – from the original proposal, for which the ACLU and others, including Common Cause Rhode Island and the Rhode Island Press Association, had prepared testimony.

"The groups objected to the last-minute change in the proposal but the DPS went ahead with the hearing and ultimately adopted the rules in substantially the same form as they had been provided for the first time at the public hearing."

The suit seeks a court order to void the regulations and ordering the agency to hold a new hearing on the rules.