

## **Virginia Freedom of Information Act (FOIA) Rights & Responsibilities:**

For more information contact the FOIA Officer, Greg Wichelns, at [gregw@culpeperswcd.org](mailto:gregw@culpeperswcd.org).

The Virginia Freedom of Information Act (FOIA) guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

### **Your FOIA Rights**

- You have the right to request to inspect or receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA.

### **Making a Request for records from the District**

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA. From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request.
- Your request must identify the records you are seeking with "reasonable specificity." You are required to be specific enough so that we can identify and locate the records that you are seeking.
- Your request must ask for existing records or documents. FOIA does require that records be created that do not exist.
- You may choose to receive electronic records in any format used by the District in the regular course of business.
- If we have questions about your request, please cooperate with our efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request.
- The District must respond to your request within five working days of receiving it. "Day One" is considered the first workday after your request is received. The five-day period does not include weekends or holidays.
- You do not have to state why you want the records. FOIA does, however, allow the District to require you to provide your name and legal address.

- FOIA requires that the District make one of the following responses to your request within the five-day time period:
  - We provide you with the records that you have requested in their entirety.
  - We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
  - We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
  - We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.
  - If it is practically impossible for the District to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 working days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before we go to court to ask for more time.

## **Costs**

- A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia.
- You may have to pay for the records that you request from the District. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.



- If we estimate that it will cost more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- You may request that we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, the District will require payment of the past-due bill before it will respond to your new FOIA request.

### **Types of records**

The following is a general description of the types of records held by the District:

- Records of contracts which the District has entered into with vendors.
- Financial records of the District.
- Records of the meetings and transactions of the Board of Directors.
- Personnel records concerning employees and officials.
- Records of contracts with individual citizens, or legally identified private organizations or cooperatives regarding financial incentive programs that promote soil and water conservation.
- Dam safety documents relevant to dams owned and operated by the District.

If you are unsure whether the District has the record(s) you seek, please feel free to contact the FOIA Officer named above.

### **Commonly used exemptions**

The Code of Virginia allows any public body to withhold certain records from public disclosure. The District may withhold records subject to the following exemptions:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§2.2-3705.1 (3))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
- Criminal investigative file information (§ 2.2-3706)
- Real estate and personal property tax information consistent with (§ 58.1-3)
- Health records (§ 32.1-127.1:03)



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL  
COMMONWEALTH OF VIRGINIA

**REQUESTER PUBLIC COMMENT FORM**

Please give us your feedback regarding the quality of assistance you received in regard to your request for public records.

1. Name of the public body from which you requested public records:

\_\_\_\_\_

2. Date of the request: \_\_\_\_\_

3. Response you received (please check below):

- ☐ Records were provided  
☐ Records were provided in part, but denied in part  
☐ Request was denied  
☐ No response was received  
☐ Other:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Overall, how satisfied were you with the response you received?

Not satisfied		Acceptable		Fully satisfied
1	2	3	4	5

COMMENT \_\_\_\_\_

5. Did you make your request through the public body's FOIA officer (yes/no)? \_\_\_\_\_

If so, how easy was it for you to find contact information to make your request?

Easy		Difficult		
1	2	3	4	5

COMMENT \_\_\_\_\_

6. Were you charged for your request (yes/no)? Yes ☐ No ☐

If the answer was "yes," did you feel the charges were reasonable (yes/no)? Yes ☐ No ☐

COMMENT \_\_\_\_\_

\_\_\_\_\_

7. ADDITIONAL COMMENTS:

**OPTIONAL:** You may provide your name and contact information if you wish. It is not required. Please keep in mind that any information you provide may be subject to disclosure under FOIA, so please do not provide information you do not wish to be made public.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**You may send your completed form to the public body that is the subject of your comments and/or to the FOIA Council. To send your completed form by mail, facsimile or electronic mail to the FOIA Council, please use the following contact information:**

Virginia Freedom of Information Advisory Council  
Pocahontas Building, 10th Floor  
900 East Main Street, Richmond, Virginia 23219  
Email: [foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov) Fax: 804-698-1899  
Telephone: (804) 698-1810 or (866) 448-4100 (toll free)