

Virginia Freedom of Information Act Access to Public Records Quick Reference

FOIA = Democracy In Action

POLICY = Openness over secrecy

What is a public record?

Any type of record—electronic files, email, papers, letters, CD's, video or audio recordings, etc. If you're government and you have a record in the transaction of your public business, then it is a public record.

Exception: It is not a public record if it is not in the transaction of public business. Examples: Letter from your insurance company, note from your spouse, invitation to a party, spam email, etc.

Who has access rights under Virginia FOIA?

Citizens of Virginia & media representatives in Virginia.

BUT anyone can get a Virginia citizen to make a request on his or her behalf.

How long do I have to respond to a request?

FIVE (5) working days

What responses are allowed under FOIA? Multiple choice:

YES: Provide the records to the requester.

NO: Identify the subject matter and volume of records being withheld, and cite the applicable exemption(s) in writing.

YES and NO: Provide part of the records, but withhold portions that are exempt—Identify the subject matter of the records being withheld and cite the applicable exemption(s) in writing.

DO NOT HAVE IT: Tell the requester in writing that the record cannot be found or does not exist. If you know someone else has the record, tell the requester.

NEED MORE TIME: Tell the requester in writing you are invoking your right to seven (7) additional working days to respond. If that is not enough time, work out a deal with the requester. If you cannot reach a deal, you may petition a court for more time.

Do you have to provide the records for FREE?

NO: You may charge, but charges must be **REASONABLE** and may not exceed **ACTUAL** costs for:

SEARCHING for records;

ACCESSING records;

DUPLICATING records; and

SUPPLYING records (which includes redaction).

You may **NOT** charge for legal review or maintenance costs or other general expenses. What is **REASONABLE**? Only a court can rule on what is reasonable, but if you think the charges will land you in front of a judge, it probably isn't reasonable. The requester has a right to an **ESTIMATE** in advance. You may collect an **ADVANCE DEPOSIT** if the estimated charges will exceed \$200.

Specific Questions? Call or email the FOIA Council:

804-225-3056

1-866-448-4100

foiacouncil@dls.virginia.gov