



TO: Virginia FOIA Advisory Council Members

FROM: Barbara Kanninen – School Board Chair, Arlington Public Schools
Barbara Kanninen

RE: Opposition to HB 2000 – Changes to the Virginia Freedom of Information Act

Dear FOIA Advisory Council Members:

Please accept this e-mail as Arlington Public Schools' written comments in opposition to the proposed changes in regard to how charges can be assessed for processing FOIA requests.

School divisions throughout the Commonwealth have faced many financial pressures in recent years due to rising costs; continued pressures to improve student performance on state testing and high school graduation rates; the need to address critical staff shortages in all areas – teachers, bus drivers, substitutes and administrative support; and reduced funding available through local resources. Over the past two years, the Covid-19 pandemic has severely impacted student achievement and we need to focus our limited resources on this in the years ahead with our limited resources. Having to essentially “donate” staff time for “free” FOIA requests is an undue burden for local school divisions.

Virginia HB 2000 states:

Virginia Freedom of Information Act; charges for production of public records.

1. Prohibits a public body from charging a requester for any costs incurred during the first two hours spent accessing or searching for requested records when such requester has made four or fewer individual records requests to such public body within 31 consecutive days.
2. The bill provides that for any additional time spent accessing or searching for such records, or when such requester makes five or more individual records requests to such public body within any 31-consecutive-day period, the public body shall not charge an hourly rate for accessing or searching for the records exceeding the lesser of the hourly rate of pay of the lowest-paid individual capable of fulfilling the request or \$33 per hour.
3. The bill also requires public bodies to post on their website or otherwise publish a written policy (i) explaining how the public body assesses charges for accessing or searching for requested records and (ii) noting the current fee charged, if any, by the public body for accessing and searching for the requested records.

Regarding Item #1: Arlington Public Schools rarely has anyone who submits more than 4 FOIA requests in one month. Usually, we receive one request from a person or group that actually contains multiple requests (ranging from 3 – 12 separate requests) within a single FOIA, usually involving different staff members who have to search for records for each sub-request.

Arlington Public Schools averages 20 FOIA requests per month (or 200 requests per year). During the current school year alone, one citizen has already filed 17 separate FOIA requests in the last four months. If the charges for the majority of these requests had to be waived, I estimate that would mean we would be required to waive reimbursement of fees for hundreds of hours by teachers, principals, school and central office administrators and support staff to respond to one citizen rather than focusing on the instructional needs of the thousands of students we need to serve.

Regarding Item #2: Records for a few of our most recent requests required work by a wide range of staff with varying hourly rates, including:

- An HR staffer for \$36/hr.,
- A finance analyst at \$47hr.,
- A data analyst at \$59/hr., and
- The Security Coordinator at \$55/hr.

None of these positions (and most APS staffers) have a “confidential secretary” or administrative assistant that can be assigned to do this work. In today’s world and for budget reasons, most school staff do their own data entry and maintain their own files and records. For security reasons, they also limit access to their records.

Limiting the hourly rate charges to only \$33 per hour would result in significantly undercharging for the actual cost of each request. Combined with the changes in Part #1 of the proposed act, this would mean that school divisions would be required to dedicate a significant amount of staff time to respond to FOIAs, rather than using the available funds to do the work to support the children in our community.

Regarding Item #3: Arlington Public Schools has a webpage that outlines our [FOIA Procedures and Fees](#) and this information is also included online as the [FOIA Policy](#) and [FOIA Policy Implementation Procedures](#). We do not, however, list the actual charges fees because they are tied to each staff member’s hourly rate which varies, depending on the request. Our procedures clearly explain the process used to determine charges and we provide detailed estimates for all requests including the hourly rate for each person involved in responding.

Therefore, on behalf of the Arlington County Public School Board, I respectfully request the FOIA Advisory Council to vote No on the changes proposed in HB2000 due to the undue stress this would place on school divisions and other governing bodies throughout the Commonwealth.

cc: Arlington School Board Members
Reid Goldstein, Vice Chair
Cristina Diaz-Torres, Member
Monique O’Grady, Member
David Priddy, Member
Dr. Francisco Durán, Superintendent
Linda M. Erdos, APS FOIA Officer
Lilla Wise, Legislative Liaison for Arlington County
Alan Gernhardt, Executive Director, Virginia FOIA Council