

**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. are not public records.

Who has access rights under Virginia FOIA?

Citizens of Virginia & media representatives that broadcast or have circulation 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 (which includes exclusion review);
- **ACCESSING** records;
- **DUPLICATING** records; and
- **SUPPLYING** records.

You may NOT charge for secondary legal review, 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 is not 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:

804-698-1810

1-866-448-4100

foiacouncil@dls.virginia.gov