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Best Practices for Using Artificial Intelligence (AI) when Requesting Records under the Virginia Freedom of Information Act

What to check before you send a request drafted with ChatGPT, Copilot, Gemini, Claude or a similar generative AI tool

Many people now use artificial intelligence (AI) tools to help draft requests for public records. AI can help you organize your thoughts and write clearly. But AI tools also make predictable mistakes that can slow down your request or make it more expensive. This guide explains how to get the most out of AI while making sure your request achieves your aims under Virginia law.

Can I use AI to write my request?

Yes. There is no legal difference between a request drafted with AI and any other request. What matters is what the request says, not how it was written. The Virginia Freedom of Information Act (FOIA) requires that a request must identify the records you want with "reasonable specificity."[1] One of the problems we have seen with AI-drafted requests is that they often have multiple parts and subparts which can make them quite long, complicated, and subject to multiple interpretations. A well-drafted request should be concise and clear on its face so it is both reasonably specific (as required by FOIA) and easily understood (to avoid confusion or mistakes in processing the request). For those reasons, if you choose to use AI to help you draft a request, make sure you double-check the product and edit it as needed.

Why should I check what AI wrote?

The AI tools we interact with are frequently trained on general information, and much of it concerns federal FOIA[2] or other states' laws.

Common issues that AI use introduces include:

- **Questions instead of records.** FOIA gives you access to records that already exist. A public body does not have to create a new record or answer questions, although it may agree to summarize information. Sometimes AI chooses phrasing that asks a question rather than making a request for records.
- **Requests that are broader than you need.** Requests including such phrasing as "All records relating to …" or "Including but not limited to …" are not "reasonably specific" because they leave the parameters of a request open-ended. Similarly broad language can cause a single request to be more expansive than you really want by asking for a wide range of records that increases search time and production costs. For example, you may be interested in a recent event

[1] Subsection B of § 2.2-3704 of the Code of Virginia.
[2] 5 U.S.C. § 552.

that occurred in your locality or affected a specific agency but an AI tool might phrase a request to ask for all events of the same type over a span of years.

- **Laws from other jurisdictions.** Because AI often draws information from various online sources, they may cite to federal FOIA, another state's statute(s), or even laws from other countries. While those laws may be valid in their own jurisdictions, they generally do not apply to Virginia state and local public bodies.
- **Out of date or incorrect information.** AI chatbots may provide responses that include information that is not accurate, frequently misstating current law, or providing documents created years ago while citing them as current law.
- **Invented details.** Case names, legal citations, office names, events or facts that look convincing but are not real. Sometimes AI is subject to its own form of hallucinations such that it might come up with language that sounds plausible but it refers to something that does not actually exist. A request that contains errors is still a valid request, and staff will still try to process it, but a public body may need to contact you to clarify what you want, and that can delay receipt of your records.

What if the public body asks me to clarify my request?

Answer as soon as you can, and do not hesitate to narrow your request. Clarifying is a way to help smooth the process of getting your records. Clear, concise and polite communications between a requester and the public body are the best way to make sure a FOIA transaction goes smoothly.

Where can I get help?

- **The public body's FOIA officer.** Every Virginia public body that is subject to FOIA must designate a FOIA officer, whose contact information is required to be posted.
- **The Virginia Freedom of Information Advisory Council.** Reach out to us at foiacouncil.dls.virginia.gov.

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Quick Reference Guide: Using Artificial Intelligence (AI) when Requesting Records under the Virginia Freedom of Information Act

Before you hit send, check the following:

1. **Does my request cover what I actually need?** Read the request as if you were the person receiving it. Remove anything the AI added that you do not want.
2. **Is it reasonably specific?** Name the topic, the type of record (emails, contracts, reports), the people or offices involved, and a date range (if applicable).
3. **Does it refer to current Virginia law, if it cites any law at all?** If you mention a statute, it should be FOIA, § 2.2-3700 *et seq*.
4. **Are the facts right?** Check names, dates, citations, and the office you are writing to.
5. **Is it clear and courteous?** Short, plain requests are easier to process than long, formal ones. Avoid confrontational language if you feel that the FOIA officer is not giving you what you want.

Example: tightening an AI-drafted request

AI draft

"Pursuant to 5 U.S.C. § 552, I hereby demand any and all documents, communications, and data in any form relating to road maintenance, to be produced within 20 business days."

Wrong law, wrong deadline, and far too broad.

Revised

"Under Virginia FOIA, I request copies of contracts and invoices for pothole repair on Route 7 in [County] from January 1 to June 30, 2026. Electronic copies by email are preferred."

Specific, correct, and quicker to process.

Some facts about Virginia FOIA requests

Who may request?	Citizens of Virginia, and representatives of newspapers and magazines circulating in Virginia and of radio and television stations broadcasting in or into Virginia. A public body may ask for your name and legal address to confirm citizenship.
How to ask for records?	FOIA does not require a particular form. A written request (email is encouraged) gives you and the public body a clear record of what was asked and when.
How fast will I receive a response?	A response must be sent within five working days. If that is not practically possible, the public body may take seven additional working days to respond by telling you so within the first five.
Cost	Charges may not exceed the actual cost of searching for and copying records. You may ask for a cost estimate in advance. If charges are likely to exceed $200, a deposit may be required.
If records are withheld	The public body must tell you and cite the specific Code section that allows the records to be withheld.

Portions of this guide are adapted from guidance published by the UK Information Commissioner's Office, "Freedom of information (FOI) and artificial intelligence" (2026). [Issuing office] • [Month Year]