

# *Best Practices for Making Requests for Public Records*

## I. Introduction

This guide offers helpful tips for people requesting public records under the Virginia Freedom of Information Act (FOIA) and the public bodies responding to those requests. It follows the steps of the request process, starting with pre-request research, how to make a request and phrase it clearly, and finally, how to handle any back-and-forth discussions between a requester and a public body. Note that FOIA encourages public bodies to work reasonably with requesters to agree on how to provide the requested records.

For more information on the procedural rules for requesting and responding to requests for public records, see the separate guide "Access to Public Records Under the Virginia Freedom of Information Act" available on the FOIA Council website.

Further detailed guidance regarding charges for the production of public records is provided in a separate document entitled "FOIA Charges Guide," which can be found on the FOIA Council website.

## II. Preliminary Research and First Contact

### *Before making your request:*

- Since each public body in Virginia manages its own records and there is no central location where all public records are stored, the requester will need to contact the specific public body that is most likely to have the desired records.
- Start by considering which public body is most likely to have the desired records and what those records might be called. Keep in mind that different public bodies may use different terms for records that serve similar purposes.
- Review the records retention schedules on the Library of Virginia's website, [lva.virginia.gov](http://lva.virginia.gov), for ideas.
- Check the websites of public bodies for ideas about what records they have or whether the information is already posted online or otherwise available.
- Familiarize yourself with the procedures in § 2.2-3704 of the Code of Virginia and other publications of the FOIA Council available on its website, [foiacouncil.dls.virginia.gov](http://foiacouncil.dls.virginia.gov).
- Find the public body's FOIA contact on the public body's website or call the public body to ask for the FOIA contact. In addition, the FOIA Council maintains a list of FOIA officers on its website, and each public body is required to publish a statement of FOIA rights and responsibilities as well as contact information for their FOIA officer(s).

## III. Making the Request

### *General tips:*

- A requester may ask for records orally (in person, over the phone, etc.) but it's a best practice to put the request in writing (email, letter, fax) so that the requester and the



public body FOIA officers are literally on the same page. A paper trail will also be helpful if disagreements or disputes arise later.

- Be respectful.
- Be direct and clear.
- Avoid getting personal, editorial, or adversarial.
- Ask for records, not answers to questions or explanations, since FOIA is a process for accessing records that already exist.
- Do not assume that all public bodies handle their FOIA processes the same way as others. Be flexible and when in doubt contact the public body and ask questions.

### *The request itself:*

- Reducing the number of search terms, the length of time frames, and/or the number of people involved should save both time and money.
- If the public body has the right technology, use Boolean search terms when possible (e.g., "zoning application AND denied" or "zoning application AND residential NOT industrial").
- Avoid terms like "any and all" or "included but not limited to," which can broaden the scope of the request beyond what you really want.
- Similarly, avoid terms that may be open to interpretation, such as "related to" or "associated with," as these terms may be interpreted differently in different situations and by different people.

If you are unsure about what records a public body has or how it manages them, contact the public body first to discuss your request. This helps avoid using vague or broad language in your request, ensuring important records are not missed.

Many of these tips are aimed at reducing the number of potential records the search will yield because fewer records should save time and money. A narrower search might miss some desired records, but you can make follow-up requests based on what you learn in your first request.

- Keep in mind, broad requests like those used in the litigation process (discovery) are more likely to result in lots of duplicate records or records you do not want and do not want to pay to retrieve.

## **IV. Negotiating the Terms of Production of Records**

FOIA's policy statement in § 2.2-3700 of the Code of Virginia encourages requesters and public bodies to work together. Clear communication is beneficial to all involved.

### *Some specific items to consider when negotiating the terms of production:*

- Volume of records to be searched
- Time frame covered by the request



- Time frame of response and costs to be charged (as points of negotiation rather than statutory limits, such as allowing a public body additional time to respond in exchange for reduced costs)
- Subject matter of request
- Keyword searches
- Limiting request based on involvement of specified individuals (as authors, senders, recipients, or otherwise)

*After the request:*

- Continue to work with the FOIA officer to get the desired records.
- Be flexible, offer alternatives, and be willing to negotiate if it will help you get the desired records.
- Avoid making repeated requests for the same record. Multiple requests might be needed if a record you've previously requested has been changed or updated, but if there have been no changes or updates, asking for the same record over and over will likely result in getting the same record over and over.

## Virginia Freedom of Information Advisory Council

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Advisory opinions of the FOIA Council are available on the FOIA Council [website](#).

