

# The Virginia Freedom of Information Act

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*The Virginia Freedom of Information Act (FOIA) was enacted July 1, 1968. The statute ensures citizen access, with certain exceptions, to government records and meetings.*

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## Rights & Responsibilities The Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA), located [§ 2.2-3700 et. seq. of the Code of Virginia](#), guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

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### Your FOIA Rights

- You have the right to request to inspect or receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA.

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### Making a Request for Records from Norfolk State University

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA.
  - From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing.
  - This allows you to create a record of your request. It also gives us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request.
  - However, your FOIA request **cannot** be refused if you elect not to put it in writing.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records

that you are requesting; instead, it requires that you be specific enough so that the person receiving your request can identify and locate the records that you are seeking.

- Your request **must** ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of Norfolk State University, nor does it require NSU to create a record that does not exist.
- You may choose to receive electronic records in any format used by Norfolk State University in the regular course of business.
  - For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records.
- If there are questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request.
- Making a FOIA request is not an adversarial process, but the person receiving the request may need to discuss your request with you to ensure that he or she understands what records you are seeking.

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**To make a request for records**, your request should be directed to the Office of Legislative Affairs at the following address:

Office of Legislative Affairs  
c/o Office of the President  
Norfolk State University  
700 Park Avenue, Suite 520  
Norfolk, VA 23504

Phone: (757) 823-8670  
Fax: (757) 823-2342

Email: [president@nsu.edu](mailto:president@nsu.edu)

You may also contact the Office of Legislative Affairs with questions you have concerning your request. In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA.

The Council may be contacted by e-mail at [foiacouncil@leg.state.va.us](mailto:foiacouncil@leg.state.va.us) or by phone at (804) 225-3056 or [toll free] 1-866-448-4100.

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**The Office of Legislative Affairs Responsibilities in Responding to Your Request**

- The Office of Legislative Affairs must respond to your request within five (5) working days of receiving the request. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.
- The reason behind your request for public records is irrelevant, and you cannot be asked why you want the records before a response to your request is made. FOIA does, however, allow the person receiving the request to ask you to provide your name and legal address.
- FOIA requires that the Office of Legislative Affairs make one of the following responses to your request within the five-day time period:

- 1) Provide you with the records that you have requested in their entirety.
- 2) Withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, a response, in writing, must be sent to you. That response must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows the exemption.
- 3) Provide some of the records that you have requested, but withholds other records. An entire record cannot be withheld if only a portion of it is subject to an exemption. In that instance, the Office of Legislative Affairs may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. A written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld must be provided.
- 4) If it is practically impossible to respond to your request within the five-day period, the Office of Legislative Affairs must state this in writing, explaining the conditions that make the response impossible. This will allow seven (7) additional working days to respond to your request, giving a total of twelve (12) working days to respond to your request.
  - If you make a request for a very large number of records, and the Office of Legislative Affairs feels that it cannot provide the records to you within twelve (12) days without disrupting other organizational responsibilities, the Office of Legislative Affairs may petition the court for additional time to respond to your request.
  - However, FOIA requires that a reasonable effort to reach an agreement with you concerning the production of the records before the Office of Legislative Affairs goes to court to ask for more time.

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## Costs

- You *may have to pay* for the records that you request. FOIA allows the Office of Legislative Affairs to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
  - If the estimate is more than \$200 to respond to your request, the Office of Legislative Affairs may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days allowed to respond to your request does not include the time between when Legislative Affairs asks for a deposit and when you respond.
  - You may request that the Office of Legislative Affairs estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
  - If you owe Norfolk State University money from a previous FOIA request that has remained unpaid for more than 30 days, Norfolk State University may require payment of the past due bill before it will respond to your new FOIA request.
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### Commonly used exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure subject to the following exemptions:

- Personnel records ([§ 2.2-3705.1](#) (1) of the Code of Virginia)
- Records subject to attorney-client privilege ([§ 2.2-3705.1](#) (2)) or attorney work product ([§ 2.2-3705.1](#) (3))
- Vendor proprietary information ([§ 2.2-3705.1](#) (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded ([§ 2.2-3705.1](#) (12))