

Virginia State University Board of Visitors The Virginia Freedom of Information Act Rights & Responsibilities

Adopted June 14, 2013

The Rights of Requesters and the Responsibilities of Virginia State University under the Virginia Freedom of Information Act:

The Virginia Freedom of Information Act (FOIA), § 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.

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.

Making a Request for records from Virginia State University

- You may request records by mail, fax, or in person.
- 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 a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard and it requires that you be specific enough so that we can identify and locate the records that you are seeking.

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- 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 Virginia State University nor does it require Virginia State University to create a record that does not exist.
- If we have 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 we may need to discuss your request with you to ensure that we understand what records you are seeking.

To request records from Virginia State University, you may direct your request to the VSU University Relations office, (804) 524-3085, or e-mail FOIA@vsu.edu.

Virginia State University's Responsibilities in Responding to Your Request

- Virginia State University must respond to your request within five working days of receiving it. "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 from Virginia State University is irrelevant, and we cannot ask you why you want the records before we respond to your request. FOIA does, however, allow Virginia State University to ask you to provide your name and legal address.
- FOIA requires that Virginia State University make one of the following responses to your request within the five-day time period:
 1. We provide you with the records that you have requested in their entirety.
 2. We 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, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
 3. We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 4. If it is practically impossible for Virginia State University to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days

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to respond to your request, giving us a total of 12 working days to respond to your request.

If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before we go to court to ask for more time.

Costs

- You may have to pay for the records that you request from Virginia State University. FOIA allows us 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 we estimate that it will cost more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- You may request that we 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 us money from a previous FOIA request that has remained unpaid for more than 30 days, Virginia State University may require payment of the past-due bill before it will respond to your new FOIA request.

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. Virginia State University commonly withholds records 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) of the *Code of Virginia*) or attorney work product (§ 2.2-3705.1(3) of the *Code of Virginia*)
- Tests or examinations used, administered or prepared for the purpose of evaluation of any student or any student's performance (§ 2.2-3705.1(4) of the *Code of Virginia*)
- Records recorded in or compiled for use in closed meetings of the Board of Visitors (§ 2.2-3705.1(5) of the *Code of Virginia*)
- Vendor proprietary information (§ 2.2-3705.1(6) of the *Code of Virginia*)
- Computer software developed for the University (§ 2.2-3705.1(7) of the *Code of Virginia*)

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- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1(12) of the *Code of Virginia*)
- Information that described the design, function, operation or access control features of University security systems (§ 2.2-3705.2(3) of the *Code of Virginia*)
- Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject of that information (§ 2.2-3705.4(1) of the *Code of Virginia*)
- Data, records or information of a proprietary nature produced or collected by or for faculty or staff of the University in the conduct of or as a result of study or research on scientific, technical or scholarly issues, where such data, records or information has not been publicly released, published, copyrighted or patented (§ 2.2-3705.4(4) of the *Code of Virginia*)
- Individual health records (§ 2.2-3705.5(1) of the *Code of Virginia*)
- Working papers of the President of the University (§ 2.2-3705.7(2) of the *Code of Virginia*)

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