

West Virginia Department of Administration

Freedom of Information Act Policy

Purpose

This Freedom of Information Act Policy (“Policy”) establishes procedures for Department of Administration Agencies (“DOA Agencies”) to respond to Freedom of Information Act Requests (“FOIA Requests”) made to DOA Agencies by members of the public, press and any entity outside of West Virginia State Government.

The Department of Administration (“DOA”) will strictly follow the requirements of the West Virginia Freedom of Information Act, W.Va. Code §29B-1-1, *et seq.* (“FOIA”) As outlined more specifically below, it is the responsibility of each DOA Agency to respond to FOIA Requests in a timely and appropriate manner.

The FOIA is explicit that “all persons are, unless otherwise expressly provided by law, entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.” FOIA Requests should be “liberally construed.”

Procedures

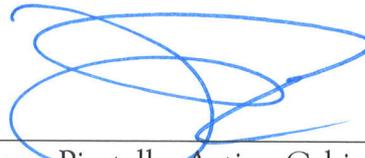
- Immediately upon receipt of a FOIA Request, DOA Agencies will provide copies of FOIA Requests to the DOA Secretary’s Office. Specifically, copies should be provided to the DOA General Counsel and the DOA Director of Communications.
- FOIA Requests may be received by written correspondence (including e-mail), or transmitted verbally. FOIA Requests must state with “reasonable specificity” the information sought by the requestor.
- Responses to FOIA Requests (“FOIA Responses”) must be provided within five (5) business days of the receipt of the FOIA Request. If, for any reason, it will take the DOA Agency longer than five business days to provide responsive materials to the FOIA Request, the DOA Agency must provide a response to the requestor indicating that a response is underway, and indicate a reasonable timeframe for the DOA Agency to provide a formal FOIA Response.
- DOA Agencies may not charge for any aspect of providing a FOIA Response to FOIA Requests. For this reason, DOA Agencies are encouraged to respond to FOIA Requests in the most economical way possible. This may involve providing

electronic, rather than paper copies of materials. DOA Agencies are also encouraged, whenever possible, to provide access to requestors in order to inspect and copy materials on their own, rather than devote agency staff time to generating a response to the FOIA Request.

- Before finalizing a FOIA Response, DOA Agencies will provide copies of the draft FOIA Response to the DOA Secretary's Office. Specifically, copies should be provided to the DOA General Counsel and the DOA Director of Communications.

DOA Agency FOIA Compliance Officers

- Each DOA Agency shall identify a FOIA Compliance Officer to review incoming FOIA Requests and coordinate the DOA Agency FOIA Responses as outlined in the "Procedures" section above.
- Each Compliance Officer will be familiar with the requirements of FOIA Responses, and will work directly with his or her Agency's legal counsel to identify exemptions to FOIA Responses identified in W.Va. Code § 29B-1-4.
- The DOA Agency FOIA Compliance Officer will report information regarding each FOIA transaction to the West Virginia Secretary of State's Office, as required by W. Va. Code § 29B-1-3a. For further guidance on reporting requirements, see the attached Memorandum, dated December 22, 2015 entitled "Agency Guidelines for Compliance with New FOIA Obligations."



Jason Pizatella, Acting Cabinet Secretary
West Virginia Department of Administration

1/5/2016

Date

To: Cabinet Secretaries (For Distribution to Agencies)
From: Peter G. Markham, General Counsel
Re: Agency Guidelines for Compliance with New FOIA Obligations
Date: December 22, 2015

This is a reminder that beginning January 1, 2016 West Virginia law requires public bodies that receive requests under the Freedom of Information Act (“FOIA”) to report certain information to the Secretary of State. See W. Va. Code § 29B-1-3a. Specifically, public bodies must log the following information into an online database that will be maintained by the Secretary of State:

- The nature of the FOIA request;
- The nature of the public body’s response;
- The time-frame that was necessary to comply in full with the request; and
- The amount of reimbursement charged.

This is the only information that must be reported to the Secretary of State under the revised law. Public bodies **shall not** provide to the Secretary of State copies of the public records that were the subject of the FOIA request.

The Office of the Governor has received inquiries from agencies seeking guidance on how much information they should report to the Secretary of State. We believe agency reports should be brief, but contain sufficient information for an individual to ascertain the general gist of the FOIA request and the agency’s response. Here are some examples:

Request	Response	Timeframe	Reimbursement
Records relating to applicants for judicial vacancy in 1 st Circuit.	Provided copies of completed applications and letters of recommendation for John Doe, Esq. and Jane Doe, Esq.	5 days	\$0 (media inquiry)
Internal memoranda from Secretary of Revenue to Governor re: budget recommendations.	Asserted deliberative process/internal memorandum exemption.	5 days	N/A
Veto messages drafted by Governor MacCorkle.	No responsive records. Advised requester to pose request to State Archives.	5 days	N/A

If you have any questions, please do not hesitate to contact us.