



Founding Freedoms  
LAW CENTER

## Founding Freedoms Law Center's Top 10 FOIA Request Tips

Freedom of Information Act (FOIA) requests are one of the most powerful tools citizens have for knowing what their governments are doing and holding them accountable for their actions. Yet while every citizen has the legal right to request access to a wide variety of public records, not many know how to go about it, and even fewer know how to do so effectively. To help Virginians do just that at the local and state levels of government, we've compiled what we consider to be the most critical tips when using FOIA so they can keep their government in check.

### 1. Identify the Designated FOIA Personnel

To save time and to prevent your request from being lost in a bureaucratic black hole, make sure to send your records request *directly* to the correct or best person within a state agency (e.g. Dept. of Health or Education) or local government body (e.g. School District). Typically, there is a specific person designated to handle FOIA requests. By law, all VA state agencies are supposed to have a link to FOIA information somewhere on their internet homepage. You can also enter "FOIA" into the search bar of the agency/government website, and they will usually have a page that explains the process and provides the FOIA contact email or physical address. (Or, see FFLC's list of FOIA contacts.)

### 2. Clarify That You Are Making a "FOIA" Request

When you initiate your request, clarify up front that you are making a "FOIA request" (i.e. not just asking an ordinary question). Consider going the extra step of citing the FOIA chapter of the Virginia Code (i.e. "pursuant to [Va. Code § 2.2-3700 et. seq.](#)"). While it's not required, this will help ensure that all the corresponding FOIA rights and duties are triggered upon your request.

### 3. Only Ask for "Public Records"

FOIA is about the availability of "public records." While the [definition of public records](#) is broad, it is not unlimited. The records must plausibly pertain to matters of public concern (as opposed to merely private), which the government possesses, and they also must be an actual *record* of information. Hence, FOIA cannot be used to require the government to compile information into a new format that is not already embodied in an existing public record (e.g. creating a summary or list). In most cases, you should be asking for "documents" (e.g. electronic, such as emails, and/or hard copies), but it could also be audio and/or visual recordings, etc.

### 4. Limit Your Scope

If you are seeking information on more than one general topic (e.g. Transgender issues, Critical Race Theory, Abortion Data), ideally ask only for records related to one issue/topic for each formal request. Consider the person on the other end who is going to have to hunt down everything you ask for within a relatively tight deadline. Limiting the topical scope will make it more likely that the FOIA officer is able to efficiently locate and provide all the relevant documents in a timely manner. You want to make it as easy for them as possible to give you what you're looking for.

## 5. Be Clear and Concise

Make sure your request is both clear and concise as possible (i.e. ask for exactly what you're looking for, no more, no less). The more specific and narrowly-tailored your request is, the more likely you are to receive the documents you're seeking. Try to make it easy for the FOIA officer to find relevant documents, including by asking for records that contain certain *distinct* words or phrases that can be searched (e.g. "abortion", "diversity, equity, and inclusion", "gender identity"). If possible, avoid the temptation to use FOIA as a "fishing expedition" because you may become overloaded with unrelated documents, which will cost you a lot of unnecessary time to sift through, and it will also likely cost you a lot of money, which the agency can charge to pay for the hours spent by government staff to find them. In your request, always offer to clarify further what you are really looking for.

## 6. Specify a Time Frame

Another element of being clear and concise is to specify a time frame for records you are seeking. For example, if you are asking for all school board emails containing certain buzzwords, stipulate a reasonable and relevant time frame (e.g. "from January 1, 2019 until today's date") so that the FOIA officer doesn't have to fish through emails from decades of past school boards that you're not actually concerned with.

## 7. Request a Specific Format

A FOIA officer can send you records in a variety of formats including via email attachments of PDFs/Excel/Word Docs, a Dropbox link, flash drives, or physical mailings. If you prefer the records in a specific format, make sure to ask for that up front and they are usually very accommodating.

## 8. Request a Cost Estimate

FOIA allows governments to charge fees for filling a public records request, and sometimes they do. If you don't want to be surprised by a large bill, especially if you receive more documents than you anticipated, you must request a cost estimate up front before they begin compiling your request. Doing so will pause the timeline for the request. Once they give you an estimate, you must reply back to consent to the estimated amount before they can proceed with your request. Also, consider telling them a limit of what you are willing to pay for the request so that they do not go over that estimate in what they provide. Read the Code section addressing fees [here](#).

## 9. Know That Some Information May Be Off Limits

Some types of records are exempted from access under FOIA, such as proprietary records, medical records, attorney-client records, and "Governor's working papers." It is possible that you may request records but are told the item is exempted, or you may receive something that is partially or heavily redacted. See Va. Code § 2.2-3705.1 to § 2.2-3705.7 for the list of excludable records. However, the [government has a duty to redact](#), rather than withhold entirely, records that contain information that is not completely exempt.

## 10. Be Polite

Always be courteous and polite, remembering that the FOIA officer is a person too and is likely handling many requests. The FOIA officer may ask clarifying questions, so be willing to help them understand exactly what you want. You will catch more flies with honey.

### Bonus Tips:

\* Be Aware of Potential Time Extensions: According to [Va. Code § 2.2-3704](#), the government entity has five business days to respond and fulfill your request. However, they may invoke a seven business-day extension.

\* Ask yourself: What is my purpose/goal in obtaining the records I'm asking for? Whatever the goal is (e.g. to prove that money is going to Planned Parenthood), make sure that you are not asking for more than what you need to accomplish that purpose. This is a good rule of thumb.