

## Virginia Freedom of Information Act

The **Virginia Freedom of Information Act** (VFOIA) is the state law governing access by citizens of Virginia and representatives of the media to public records and to meetings of public bodies, as defined in the act. VFOIA provides that, with some specific exemptions and exceptions, all meetings of public bodies shall be open to the public and all public records open for public inspection. All public meetings and records are presumed open unless an exemption is properly invoked.

Loudoun County Public Schools (LCPS) complies with the state's Freedom of Information Act.

Wayde Byard is the LCPS FOIA Officer. He may be contacted at [Wayde.Byard@LCPS.org](mailto:Wayde.Byard@LCPS.org) or 571-252-1040.

It should be noted that Freedom of Information requests are governed by the Code of Virginia. This supersedes federal Freedom of Information laws when applied to records being sought from a governing body in Virginia. FOIA requests made to Loudoun County Public Schools (LCPS) should be made under the terms contained in the Code of Virginia.

### Making a VFOIA Request

It is recommended, though not required, that VFOIA requests be made in writing. Requests can be made in person, by phone, by mail, or electronically. It is not necessary to specify the reason for your request. However, you must provide your name and legal address.

- Members of the public making a request under VFOIA should contact:

Wayde Byard  
Public Information Officer, FOIA Officer  
21000 Education Court, Suite 103  
Ashburn, VA 20148  
Email: [Wayde.Byard@LCPS.org](mailto:Wayde.Byard@LCPS.org)

Phone: 571-252-1040

VFOIA requires that a request for public records must identify the requested records with "reasonable specificity."

A VFOIA request may be made for any existing documents or reports; however, public bodies are not required under VFOIA to create a new document that does not exist to satisfy a request.

### Fulfilling VFOIA Requests

Within 5 working days after a request is received, a public body must:

- Provide the requested record(s);
- Advise you that the record(s) are being withheld pursuant to VFOIA or other applicable statute. This response must describe the subject matter of the records and identify the specific section of VFOIA or the Code of Virginia that exempts the record from disclosure;
- In the case that only part of a record or only some of the records requested are exempt from disclosure, LCPS will remove the portion of the record that is not public and provide the rest, or remove the exempted record(s) and provide the rest of the records, along with an explanation of the subject matter of the information removed, and the specific portion of the Code of Virginia that exempts the portion of the record or the record(s) withheld;

- Inform you that the requested records could not be found or do not exist. If the records are known to be held by another public body, the response must also include contact information for the other public body;
- Inform you that the record(s) cannot be practically provided within five working days; an additional seven working days is then provided, within which the public body must make the record(s) available.

The act does not require electronic delivery of requested documents, though they may be provided electronically if available.

## Costs Associated with VFOIA Requests

A public body is permitted to make reasonable charges not to exceed the actual cost incurred in accessing, duplicating, supplying, or searching for the requested records.

**If asked for by the requestor**, the public body must make an advance estimate of the charges. This is only an estimate. Actual charges may exceed the estimate or could be less. In any case where the public body determines in advance that the charges for producing the requested records will exceed \$200, the public body may, before continuing to process the request, require the requestor to agree to the payment of a deposit not to exceed the amount of the advance determination. The deposit will be credited toward the final cost of supplying the requested records. An estimate is not a final bill. A final bill will be sent after completion of the request. It may be more than the estimate.

Before processing a request for records, a public body may require the requestor to pay for any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

## VFOIA and Public Meetings

All meetings of all public bodies, as defined in VFOIA, as well as any meetings of their committees or subcommittees, are generally required to be open meetings, subject to certain exceptions spelled out in the Act. An open meeting is a meeting open to the members of the public.

Under VFOIA, for there to be a "meeting" subject to the Act, there must be at least three members of the body, or a quorum of the public body if less than three, present for the purpose of discussing or transacting public business. A gathering of public employees for training is not a meeting under the Act.

During the course of a public meeting, a public body may go into a closed meeting to discuss certain specific types of matters set forth in VFOIA. In order to do so, the public body must follow the specific procedures set forth in VFOIA to go into and come out of closed session.

VFOIA permits members of the public to photograph or record (audio, visual, or audio-visual) public meetings. It also permits public bodies to adopt reasonable rules concerning the use of cameras and recorders, designed to prevent disruption and to maintain decorum.

## Requesting Student Scholastic Records

Access to student records is protected by the Family Educational Rights and Privacy Act ( **34CFR99** ), so these records are excluded from VFOIA requests.

The VFOIA exempts from disclosure student scholastic records concerning identifiable individuals to anyone except the student who is the subject of the record or to the student's parent or legal guardian if the student is under 18.

LCPS will not honor requests from other individuals for access to a student's personally-identifiable scholastic records unless the student's parent or legal guardian, if the student is under 18, or the adult student has provided LCPS a written consent authorizing the disclosure or the disclosure is otherwise permitted by law.

## Learn More About VFOIA

More information about the Virginia FOIA can be found through the **Virginia Freedom of Information Advisory Council** at <http://foiacouncil.dls.virginia.gov/>.

If you have any questions or would like additional information, please contact Wayde Byard at [Wayde.Byard@LCPS.org](mailto:Wayde.Byard@LCPS.org) or via phone 571-252-1040.

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