

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 file or video recording, or any other format- that is 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 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

## **FOIA RIGHTS**

You have the right to request or receive copies of public records, or both.

You have the right to request that any changes for the requested records be estimated in advance.

If you believe that your FOIA rights have been violated, you may file a petition in a district or circuit court to compel compliance with FOIA. Alternatively, you may contact the FOIA Council for a nonbinding advisory opinion.

## **Making a Request for records from Powhatan County Public Schools**

You may request records by U.S. Mail, fax, email, in person, or over the phone. From a practical perspective, it is helpful to the requester and PCPS that the request be in writing. This allows you to create a record of your request and assists PCPS in understanding exactly what records you are requesting and expediting a response. It also gives a clear statement of what records you are requesting, so that there is no miscommunication over a verbal request. However, we cannot refuse to respond to your FOIA request if you elect to not put in writing.

Such requests should be dated, and must state with “reasonable specificity” the documents requested so that PCPS can identify and locate the records you are seeking. The requestor shall provide his or her name and legal address when making a request. You may choose to receive electronic records in any format used by PCPS in the regular course of business.

Your request must ask for existing records or documents. FOIA gives you the right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of Powhatan County Public Schools, nor does it require PCPS to create a record that does not exist.

You may choose to receive electronic records in any format used by PCPS in the regular course of business.

For example, if you are requesting records maintained in an Excel database, you may elect to receive those electronically, via email or on a computer disk, or to receive a printed copy of those records.

If we have questions about your request, please cooperate with the staff’s efforts to clarify the type of records that you are seeking, or attempt to reach a reasonable agreement about a response to a large request.

To request records from Powhatan County Public Schools, please direct your request to:

Terri Allison

Powhatan County Public Schools

Pocahontas Landmark Center

4290 Anderson Highway

Powhatan, VA 23139

Phone: 804-598-5700

Email: [terri.allison@powhatan.k12.va.us](mailto:terri.allison@powhatan.k12.va.us)

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 email at [foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov) or by phone at (804)225-3056 or 1-866-448-4100.

## Powhatan County Public Schools' Responsibilities in Responding to Your Request

PCPS must respond to your request within five working days of receiving it. "Day One" is considered the day after the request is received. The five-day period does not include weekends or holidays.

PCPS does require you provide your name and legal address. The reason for your request for public records from PCPS is not needed.

FOIA does require that PCPS make one of the following responses to your request within a 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 you 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. We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.
5. If it is practically impossible for Powhatan County Public Schools 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 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 working 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 PCPS. A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. This includes items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. You have the right to request that an estimated cost of production be provided in advance when you submit a request.

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 do not include the time between when we ask for a deposit and when you respond.

If a requester has owed payment on a FOIA request for more than 30 days, PCPS will require payment of the past-due bill prior to processing a new FOIA request from that requester.

## **Commonly used exemptions**

The Code of Virginia allows any public body to withhold certain records from public disclosure. PCPS 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)) 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))

### **Policy regarding the use of exemptions**

Since exemptions exist in order to protect some compelling public interest, it is inevitable that the school division will need to rely on exemptions in many cases. For that reason, it is the school division's practice to invoke all exemptions that are applicable to any request for records. This practice ensures that all citizens are treated the same way, to the greatest extent possible.

- The general practice of Powhatan County Public Schools is to invoke the personnel records exemption in those instances where it applies in order to protect the privacy of employees and officials of Powhatan County Public Schools.
- The general practice of Powhatan County Public Schools is to invoke the student scholastic exemption in those instances where it applies in order to protect the privacy of students of Powhatan County Public Schools.