

Requesting Records from ACRJ

You may request records by U.S. Mail, fax, e-mail, in person, or over the phone.

FOIA does not require that your request be in writing, nor do you need to state specifically that you are requesting records under FOIA. From a practical perspective, written requests are preferred. It can 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 us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. Nevertheless, we cannot refuse to respond to your FOIA request if you elect not to put it in writing.

We cannot ask you why you want the records.

The reason for your request for public records is irrelevant. We cannot ask you why you want the records. However, FOIA does allow us to ask you for your name and legal address. ACRJ requires that you provide your name and legal address with your request.

Your request must identify the records you are seeking with "reasonable specificity."

This is a commonsense standard. It requires that you be specific enough so that we can identify and locate the records that you are seeking.

Your request must ask for records or documents.

FOIA does not apply to a situation where you are asking general questions about the work of the ACRJ. In addition, we are not required to create a new record if the record does not already exist.

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

For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically via e-mail or to receive a printed copy of those records.

Please cooperate with staff.

If we have questions about your request, please cooperate with staff to clarify or to attempt to reach a reasonable agreement about a response to a large request.

ACRJ's Responsibilities in Responding to Your Request

ACRJ must respond to your request within five working days of receiving it.

Day One is considered the first workday after your request is received. The five-day period does not include weekends or holidays.

There are five types of responses for your request.

FOIA requires that public bodies 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 specific statutory exemption(s). If all of the records are being withheld, we must send you a response in writing. That response must identify the volume and subject matter of the records being withheld and state the specific section(s) 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(s) 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 that 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 us 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.

We may petition the court for additional time to respond if you make a large 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 Associated with Requests

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

No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of [§2.2-3704 of the Code of Virginia](#).

You may have to pay for the records that you request from ACRJ.

FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items such as staff time spent searching for and retrieving the requested records, copying costs, postage

and any other costs directly related to supplying the requested records. It cannot include general overhead costs.

A deposit is required for requests exceeding \$200 in cost.

If we estimate that it will cost more than \$200 to respond to your request, we will require that you pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The time within which we must respond to your request does not include the time between when we ask you for a deposit and when we receive the deposit.

You may request that we estimate in advance the charges for supplying the records 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. We strongly recommend that you request an estimate of the cost if you are not familiar with the volume of the records that you are requesting and/or are not able or willing to pay charges of up to \$200 for the records.

Payment is due upon receipt of records.

You may also pay in advance. A new request for records will not be processed until you pay any amount that you owe for a previous records request that has remained unpaid for more than 30 days.

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. ACRJ commonly withholds records subject to the following exemptions

- The general policy of ACRJ is to invoke the personnel records exemption in those instances where it applies in order to protect the privacy of employees. ([§ 2.2-3705.1 \(1\) of the Code of Virginia](#))
- Records subject to attorney-client privilege ([§ 2.2-3705.1 \(2\)](#)) or attorney or legal work product ([§ 2.2-3705.1 \(3\)](#))
- Vendor proprietary information software ([§ 2.2-3705.1 \(6\)](#)) or agency software ([§2.2-3705.1 \(7\)](#))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded ([§ 2.2-3705.1 \(12\)](#)). The general policy of ACRJ is to invoke the contract negotiations exemption whenever it applies in order to protect the ACRJ's bargaining position and negotiation strategy.
- Engineering and architectural drawings, operational, procedural, tactical planning or training manuals, staff meeting minutes or other records, the disclosure of which would jeopardize the security of any governmental facility, building or structure or the safety of persons using such facility, building, or structure ([§ 2.2-3705.2 \(14\)](#))
- Medical and mental health records ([§ 2.2-3705.5 \(1\)](#); [§ 32.1-127.1:03](#)); The general policy of ACRJ is to invoke the inmate records and medical records exemptions where they apply in order to protect the privacy of inmates and to comply with applicable laws governing the release of certain criminal and health records.
- Confidential proprietary records related to a bid on a public construction project ([§2.2-3705.6 \(10\)](#)) or to a proposal under the Public-Private Education Facilities and Infrastructure Act ([§ 2.2-3705.6 \(11\)](#))
- Records relating to a criminal investigation or prosecution ([§ 2.2-3706 \(B\)\(1\)](#))
- Records of inmates incarcerated ([§ 2.2-3706 \(B\)\(4\)](#))

- Law enforcement records containing specific tactical plans, the disclosure of which would jeopardize the safety or security of law enforcement personnel or the general public ([§ 2.2-3706\(B\)\(5\)](#)); it is the general policy of ACRJ to invoke exemptions regarding security records whenever they apply to protect the security of its facilities and operations, and the security and safety of staff, inmates and the community.

To request records from ACRJ, you may direct your request to Theresa Schwab. She can be reached at Theresa Schwab, 160 Peregory Lane, Charlottesville, VA 22902, telephone 434-977-6981 extension 268; or email at schwabt@acrj.org. You may also contact her with questions you have concerning requesting records from ACRJ. 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 e-mail at foiacouncil@dls.virginia.gov, or by phone at (804) 225-3056 or [toll free] 1-866-448- 4100.