

FREEDOM OF INFORMATION ACT (FOIA) POLICY

Introduction:

The Virginia Freedom of Information Act (FOIA), located at 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 or video recording, or any other format-that is prepared or 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 FOIA policy states that the purpose of the 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.

611 West 31st Street, Richmond, VA 23224 804. 888.7061

Virginia Freedom of Information Act:

- Your Rights
- Request for Records
- Costs
- PHSSA Responsibilities
- FOIA Exemptions
- FOIA Request Contacts

Your Freedom of Information Act Rights

- You have the right to request to inspect or receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FIOA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA.

How to Request Records from PHSSA

1. 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 specifically state that you are requesting records under FOIA. From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing.
2. Your request must identify the records you are seeking with “reasonable specificity”. This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that PHSSA can identify and locate the records that you are seeking.

3. Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you asking general questions about the work of PHSSA, nor does it require PHSSA to create a record that does not exist.
4. You may choose to receive electronic records in any format used by PHSSA in the regular course of business.

*For example, if you are requesting records maintained in a Microsoft Excel spreadsheet, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records.

5. If PHSSA has questions about your request, please cooperate with efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.

FOIA Costs

1. You may have to pay for the records that you request from PHSSA. 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 the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
2. If PHSSA estimates that it will cost more than \$200.00 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, does not include the time between when we ask for a deposit and your response.
3. You may request that we estimate in advance the charges for supplying the records that 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.
4. If money is owed from a previous FOIA request that has remained unpaid for more than 30 days, PHSSA may require payment of the past due amount before it will respond to the new FOIA request.

The Virginia Freedom of Information Act (FOIA) Fee Schedule

As provided by Section 2.2-3704(F) of the Code of Virginia of 1950, as amended, “a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records.”

Section 2.2-3704(H) of the Code of Virginia of 1950, as amended, provides in pertinent part that:

- In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to agree to payment of a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records.

In an effort to apprise the public of the charges associated with supplying records requested pursuant to FOIA, PHSSA provides the following itemization of charges:

- The hourly rate of the employee(s) responsible for accessing, duplicating, supplying, or searching for the requested records multiplied by the length of time required to process the request will be assessed.
- If copies of records are requested, a cost of one cent per page will be assessed. This duplication cost is in addition to the hourly rate of the employee(s) responsible for duplicating the requested records.
- If copies of audio CDs or are requested, a cost of thirty-five cents per CD will be assessed. This cost is in addition to the hourly rate of the employee(s) responsible for duplicating the requested records.
- As stated above, when the estimated advance determination of charges exceeds \$200, a deposit will be required in an amount equal to half of the total amount of the estimated advance determination of charges. The deposit will be credited toward the final cost of supplying the requested records. PHSSA will discontinue processing a request for records until a response, indicating the acceptance of such charges and remittance of the required deposit. Upon request, PHSSA will estimate in advance, the charges for supplying the requested records. A final itemized statement of actual costs assessed will be provided upon completion of processing the request for records.

As provided by Section 2.2-3704(I) of the Code of Virginia of 1950, as amended, before processing a request for records, PHSSA may require a requester to pay any amounts owed to PHSSA for previous requests for records that remain unpaid 30 days or more after receipt of the final itemized statement of actual costs.

All payments due under this fee schedule shall be sent to the attention of the principal of PHSSA, 611 West 31st Street, Richmond, VA 23224. Checks and money orders shall be made payable to Patrick Henry School of Sciences and Arts.

PHSSA reserves the right to amend or supplement this fee schedule as necessary in accordance with the applicable law. Please contact the PHSSA Principal at (804) 888-7061

with any questions or concerns regarding this fee schedule. Questions may also be submitted to the principal of PHSSA in writing at the address stated above.

The Virginia Freedom Of Information Act is codified at Sections 2.2-3700 through 2.2-3714 of the Code of Virginia of 1950, as amended.

Effective: March 1, 2010

Responsibilities in Responding to Your Request

1. PHSSA must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five day period does not include weekends or holidays or days when administration offices are closed (e.g. inclement weather).
2. The reason behind your request for public records from Patrick Henry Charter School is irrelevant, and we cannot ask you why you want the records before we respond to your request. FOIA does, however, allow PHSSA to ask you to provide your name and legal address.
3. FOIA requires that Patrick Henry Charter School make one of the following responses to your request within the five day period:
 - We provide you with the records that you have requested in the entirety.
 - We withhold all of the records that you have 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.
 - We provide some of the records that you have requested, but withhold others. 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.
 - If it is practically impossible for PHSSA 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 twelve 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.

Commonly Used FOIA Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. Patrick Henry Charter School commonly withholds records subject to the following exemptions:

1. Personnel records (2.2-3705.1(1) of the Code of Virginia)
2. Written advice of Legal counsel and Records subject to attorney-client privilege (2.2-3705.1(2)) or attorney work product (2.2-3705.1(3))
3. Test or examinations (2.2-3705.1(4))
4. Records recorded in or compiled exclusively for use in closed meetings (2.2-3705.1(5))
5. Vendor proprietary information (2.2-3705.1(6))
6. Records relating to the negotiation and award of a contract, prior to a contract being awarded (2.2-3705.1(12))
7. Scholastic records containing information concerning identifiable individuals (2.2-3705.4(1))
8. Confidential letters and settlements of recommendation (2.2-3705.4(2))Virginia Freedom of

Virginia Freedom of Information Advisory Council

General Assembly Building, 2nd Floor
910 Capital Street
Richmond, VA 23219

E-mail: foiacouncil@dis.virginia.gov
Telephone: 804.225.3056; 1.866.448.4100
Fax: 804.371.8705

Last updated October 1, 2010

FOIA contacts at PHSSA

1. All requests for public records which are not routine shall be directed to the principal of

PHSSA, Mrs. Pamela Boyd via U.S. mail or hand delivery:

611 West 31st Street
Richmond, Virginia 23224

Via telephone at 804.888-7061

Or via electronic mail

Pam.boyd@patrickhenrycharter.org

2. 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@leg.state.va.us, or by phone at 804.225.3056 or [toll free] 1.866.448.4100.