

The Rights of Requesters and the Responsibilities of the Rappahannock County Library Board of Trustees under the Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA), located in § 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 statute identifies the purpose of FOIA as promoting an increased awareness by all persons of governmental activities. Further, the FOIA statute 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.

Summary of FOIA Rights

- Requesters have the right to request to inspect or receive copies of public records or both.
- Requesters have the right to request that any charges for the requested records be estimated in advance. The Rappahannock County Library Board of Trustees must notify the requester in writing that it will make reasonable charges not to exceed its actual cost incurred in searching for, accessing, duplicating, and supplying requested records and will inquire of the requester whether he would like to request a cost estimate in advance of supplying the records. (See Charges for Providing Requested Records section of this policy.)
- If requesters believe that FOIA rights have been violated, they may file a petition in district or circuit court to compel compliance with FOIA. Alternatively, they may contact the FOIA Council for a nonbinding advisory opinion.

Making a Request for Records from the Rappahannock County Library Board of Trustees

The requester may submit a request for records by U.S. mail, fax, email, in person, or over the telephone – FOIA does not require that any particular method be used to convey a request. FOIA does not require that the request be in writing nor that the records are being requested pursuant to FOIA.

From a practical perspective, it may be helpful to both the requester and the person receiving the request to have the request in writing. This allows the requester to create a record of the request. It also provides a clear statement of what records are being requested so that there is no misunderstanding over a verbal request. However, the Rappahannock County Library Board of Trustees cannot refuse to respond to a FOIA request if it is not put in writing.

The request must identify the records being sought with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records requested; instead, it requires that the request be specific enough so that we can identify and locate the records being sought.

The request must ask for existing records or documents. FOIA provides a right to inspect or copy **records**; it does not apply to a situation where the requester is asking general questions about

the work of the Rappahannock County Library Board of Trustees, nor does it require the Rappahannock County Library Board of Trustees to create a record that does not exist.

The requester may choose to receive electronic records in any format used by the Rappahannock County Library Board of Trustees in the regular course of business. For example, if the requested records are maintained in an Excel database, the records may be provided to the requester electronically, via email, on a computer disk or flash drive, or via a printed copy.

If we have questions about the request, please cooperate with staff's efforts to clarify the type of records being sought 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 the request to ensure that we understand what records are being sought.

Requests for records of the Rappahannock County Library Board of Trustees should be directed to Amanda Weakley, Library Director and FOIA Officer. She can be reached by phone at (540) 675-3780, by mail at P.O. Box 55, Washington, VA 22747, or by email at amandawrcpl@gmail.com.

In addition, the Freedom of Information Advisory Council is available to answer any questions about how FOIA works. The Council was created in the legislative branch of Virginia state government to issue opinions on the operation and application of FOIA, to publish educational materials, and to provide training about FOIA. However, the Council is not a records repository and does not process records requests on behalf of other public bodies, nor is the Council an investigative or enforcement agency. The Council may be contacted by email at foiacouncil@dls.virginia.gov, or by phone at (804) 698-1810 or toll-free at 1-866-448-4100.

The Rappahannock County Library Board of Trustees' Responsibilities in Responding to a Request

The Rappahannock County Library Board of Trustees must respond to a 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, holidays, or other days when the Rappahannock County Library is closed for business.

The requester does not have to state why the records are desired. FOIA does, however, allow the Rappahannock County Library Board of Trustees to require the requester to provide his name and legal address.

FOIA requires the Rappahannock County Library Board of Trustees to make one of the following responses to the request within the five-day time period:

1. We provide all of the requested records, in their entirety.
2. We withhold all of the requested records because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send the requester 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 requested records but withhold other records. We cannot withhold an entire record if only a portion of it is subject to a specific statutory exemption. In that instance, we may redact the portion of the record that may be withheld and must provide the remainder of the record. We must also provide written documentation stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
4. We inform the requester in writing that the requested records cannot be found, or do not exist, or we do not have the requested records. However, if we know that another public

body has the requested records, we must provide contact information for the other public body to the requester.

If it is practically impossible for the Rappahannock County Library Board of Trustees to respond to the request within the five-day period, we must state this in writing, explaining the conditions that make the response delayed. This will allow us an additional seven working days to respond to the request, giving us a total of 12 working days to respond to the request. In the case of criminal investigative files requested pursuant to § 2.2-3706.1 of the Code of Virginia, we are allowed an additional 60 working days to respond to the request, giving us a total of 65 working days to respond to the request in this situation.

If the request is for a very large number of records, and we feel that we cannot provide the records within 12 working days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to the request. However, FOIA requires that we make a reasonable effort to reach an agreement with the requester concerning the production of the records before we go to court to ask for more time.

Charges for Providing Requested Records

The FOIA statute allows a charge to be made to the requestor for the actual costs of responding to FOIA requests. The Rappahannock County Library Board of Trustees will make reasonable charges not to exceed its actual cost, including staff time, incurred in searching for, accessing, duplicating, and any other costs directly related to supplying the requested records. Any duplicating fee charged will not exceed the actual cost of duplication. We will not impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the Rappahannock County Library Board of Trustees and we will not include any general overhead costs.

Prior to conducting a search for records, we will notify the requester in writing that we will make reasonable charges as described above and inquire of the requester whether he would like to request a cost estimate in advance of our supplying the requested records as set forth in subsection F of § 2.2-3704 of the Code of Virginia. This will allow the requester to know about any costs upfront and provide the opportunity to modify the request in an attempt to lower the estimated costs. The five days that we have to respond to the request does not include the time between when we send you the estimate and when you respond. If you do not respond within 30 days, then your request will be deemed to be withdrawn.

If we estimate that it will cost more than \$200 to respond to the request, we may require that a deposit be made, not to exceed the amount of the estimate, before proceeding with the request. The five days that we have to respond to the request does not include the time between when we ask for a deposit and when it is received. As above, if you do not respond within 30 days, then your request will be deemed to be withdrawn.

If money is owed by the requester from a previous FOIA request that has remained unpaid for more than 30 days, the Rappahannock County Library Board of Trustees will require payment of the past-due bill before it will respond to the new FOIA request.

Cost Schedule

Paper copies:

\$0.10 per page. If printing is on both sides of a page: \$0.20 per page.

Copying charges will not be assessed when the total cost is less than \$1.00.

Staff time will be charged at the rate stated below when copying requires a quarter hour or more, which is likely in situations involving manual placement of records on the copier, such as positioning pages from books or reducing oversized documents.

Electronic Copies E-mailed:

Existing electronic copies will be provided at no additional charge above and beyond the cost of staff time as noted below.

Copies Transferred to Other Media:

If the requester wants electronic records held by us copied to other media, and we have the capability of doing so, we must be provided with the media, such as a thumb drive. To protect the integrity of our systems, these must be “clean,” that is, have no other data or programs stored on them. If we have to wait for the requester to supply the media, that time does not count against the period in which we have to reply.

Staff Time:

Costs for staff time for searching, retrieving, copying, and other allowable costs will be the actual direct labor cost per hour applied to the time spent, rounded down to the nearest quarter hour.

Types of Records

The following is a general description of the types of records held by the Rappahannock County Library Board of Trustees:

- Meeting Minutes of the Rappahannock County Library Board of Trustees (available online for May 2022 and forward)
- Financial Statements and Operating Budgets
- Library Policies
- Records of contracts which the Rappahannock County Library Board of Trustees has entered into, within the timeframe established by the Library of Virginia pertaining to the retention of contract documents

If the requester is uncertain whether the Rappahannock County Library Board of Trustees has the record(s) sought, please contact Amanda Weakley directly at the Rappahannock County Library by phone at (540) 675-3780, by mail at P.O. Box 55, Washington, VA 22747, or by email at amandawrcpl@gmail.com.

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. The Rappahannock County Library Board of Trustees 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))

FOIA Request Form of the Rappahannock County Library Board of Trustees

Use of this form, while not mandatory, will help us respond to your request in a timely manner and avoid unnecessary cost to you.

Name: _____

Telephone number where you want to be contacted: _____

Residence Address: (This address must be within the Commonwealth of Virginia and be where you actually reside, unless this request is made on behalf of the media, in which event please contact Amanda Weakley, the FOIA Officer.)

Mailing Address. This is where you want paper copies sent: _____

E-mail Address. Unless you specify otherwise, we will use this address to communicate with you:

Records Being Requested. Please be as specific as possible. This will save staff time in searching and avoid giving you more than what you actually want and will therefore save you money.

Do you want a cost estimate before we reply? YES NO (CIRCLE ONE)

Check one of these:

I would just like to inspect the records requested. I may request copies later.

This may be done during our regular office hours. Please coordinate your visit with us in advance. Some records may be stored off-site, or in an area where you will not be allowed, or they may be co-mingled with exempt records that will have to be separated, requiring staff time.

I would like paper copies of the records requested mailed to me at the mailing address shown above.

I would like the copies e-mailed to me at the e-mail address shown above, if possible.

I will provide the media I want the records copied onto.

Due to technical issues we may not be able to do this. Please speak to us first before requesting this. If we have to wait for you to supply the media, that time does not count against the period in which we have to reply. To protect the integrity of our computer systems, the media must be "clean," that is, have no other data or programs stored on it.

Date this is submitted: _____

Signature: _____