

FREEDOM OF INFORMATION ACT REQUESTS

Albemarle County Public Schools is committed to providing Virginia citizens timely and full access to its public records in accordance with the Virginia Freedom of Information Act (“FOIA”), Virginia Code §§2.2-3700 et seq. This policy seeks to balance that commitment with the division’s responsibility to manage its fiscal and employee resources in a prudent and cost-effective manner.

I. PUBLIC RECORD REQUIREMENTS

A. Requests Covered by this Policy

This policy establishes the procedures to be followed for all public records except those requests made by parents or by other eligible persons for student records. Policy JO, Student Records, provides the procedures to be followed for those requests.

Albemarle County Public Schools recognizes that on a daily basis parents, members of the media, and others make informal requests for simple public information, such as the number of students enrolled at a school or copies of specific School Board policies. Such routine requests need not be handled as formal FOIA requests unless indicated otherwise by the requester. In any unclear situation, the division employee should ask the requester whether he or she wishes to make a formal FOIA request.

B. Scope of FOIA’s Public Record Requirements

As a public body, Albemarle County Public Schools must provide Virginia citizens the opportunity to inspect and copy all of its public records. FOIA does not require public bodies to create new public records, compile or summarize data, or provide pure information in response to any request. Rather, public bodies must make existing public records open for inspection and copying when those records have been identified with reasonable specificity. In many instances, however, the division will provide information to the public beyond the requirements of FOIA when doing so would further the division’s goals and not impair normal operations.

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 in 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.

A “public body” for purposes of this policy means the School Board, each department and school within the division, and all committees created by the School Board to perform delegated duties of the Board or to advise the Board. In addition, any entity that receives its funding wholly or principally from the Commonwealth is considered a public body.

C. Certain Records Exempt from FOIA

All public records are presumed to be open, and may be withheld only if a specific, statutory exemption applies. Although FOIA provides numerous statutory exemptions, those most often relevant to the division are the following:

1. Scholastic records containing information concerning identifiable individuals (Va. Code §2.2-3705.4). This exemption does not apply to the parent or legal guardian of a student or the student himself, if aged 18 or older.
2. Personnel records containing information concerning identifiable individuals (§2.2-3705.1). This exemption does not apply to the individual who is the subject of the personnel records.
3. Closed meeting materials that have been recorded or compiled exclusively for use in a lawfully held closed meeting (§2.2-3705.1(5)).
4. Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1(12)).
5. Records subject to attorney-client privilege (§ 2.2-3705.1(2)) or attorney work product (§ 2.2-3705.1 (3)).
6. Working papers and correspondence of the Superintendent (§2.2-3705.7(2)).
7. Vendor proprietary information software (§ 2.2-3705.1(6)).

Before denying any request for records based on a statutory exemption, employees must consult the School Board Attorney to ensure compliance with FOIA.

II. REQUESTS FOR PUBLIC RECORDS

A. Positions Responsible for FOIA Compliance

1. FOIA Coordinator. The Superintendent shall designate an individual to be informed about all FOIA requests within the division, maintain a system for monitoring and archiving all requests received by the division, and to coordinate the preparation of responses to certain requests as described in section (a) below.
 - a. The FOIA Coordinator will coordinate the preparation of responses to all FOIA requests that: (1) affect multiple schools; (2) seek records from administrative departments; or (3) concern matters of division-wide significance. On such requests, the FOIA Coordinator is responsible for communicating with the requesting party ("requester"), coordinating the retrieval of records from all affected departments, and preparing the division's response with assistance from

the School Board Attorney as needed. All questions concerning legal compliance with FOIA should be referred to the FOIA Coordinator for consultation with the School Board Attorney.

- b. On all other division FOIA requests, the FOIA Coordinator shall simply be informed about the request and shall maintain relevant information regarding the request.
2. School Level. At each school, the principal/designee is responsible for reviewing all incoming FOIA requests, promptly informing the FOIA Coordinator about the receipt of all requests, and ensuring that responses coming from the school comply with FOIA.
3. All Employees. All other employees receiving a FOIA request should follow the procedures of his or her department to ensure that the request is referred promptly to the appropriate, designated individual within the department.

B. Format of Requests

1. Eligibility. Any Virginia citizen may request public records simply by asking for records by U.S. mail, fax, e-mail, in person, or over the phone. The requester need not mention FOIA or state that he or she is making a FOIA request. Virginia citizenship will be satisfied by providing a valid current residential or business address located in Virginia. In no event shall a division employee seek information regarding U.S. citizenship or immigration status in order to respond to a FOIA request.
2. Written Requests. The requester will be asked, but not required, to put the request in writing, using the form created by the FOIA Coordinator. This allows the division to understand what records are being requested, and to track and maintain all requests. In the alternative, the receiving employee may complete a FOIA request form on behalf of the requester after obtaining all necessary information from the requester. If this alternative is chosen, the employee should confirm the accuracy of the request with the requester.
3. Reasonable Specificity. The request must identify the records being sought with "reasonable specificity." This does not mean that the requester must specify the volume, number, or location of the records, but simply that the request must be specific enough for the division to identify and locate the records.
4. Clarification. Division staff should understand that a requester may not be required to disclose the reason for his or her request. Staff may, however, ask any questions needed to provide the requester the desired records, clarify the request, or attempt to reach a reasonable agreement about a response to a large request.

III. RESPONSES TO REQUESTS FOR PUBLIC RECORDS

A. Timeframe and Basic Requirements for Responses

1. Timeframe. Albemarle County Public Schools must respond to a FOIA request within five (5) working days of receiving it. The five-day period does not include weekends or holidays. The five-day period begins on the first working day following the day the request is received by the employee and ends at the close of business on the fifth working day. Any time that elapses between the time the requester is notified of an advance cost determination pursuant to the procedures detailed below and the time the requester responds to that notice shall not be counted in calculating the five work days.
2. One of Five Basic Responses Required. By the fifth working day following receipt of a request, division staff must provide at least one of the following responses:
 - a) The records shall be made available to the requester for inspection, or copies thereof may be provided in lieu of inspection.
 - b) The requested records will be entirely withheld because their release is prohibited by law or because FOIA gives their custodian discretion to withhold them. A written explanation identifying with reasonable particularity the volume and subject matter of the withheld records and with respect to each category withheld, referencing the code section containing the specific applicable exemption(s), shall be included.
 - c) The requested records will be provided in part and withheld in part because the release of part of the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of the records. A written explanation identifying with reasonable particularity the subject matter of the withheld portions and referencing, with respect to each category of withheld records, the specific code section(s) which authorize the withholding of records, shall be included.
 - d) The requested records cannot be found or do not exist (the division does not have the records requested). However, if staff knows that another public body does have the requested records, contact information for the other public body must be included in the response.
 - e) The division cannot determine the status of the records within the five-day period, or it is practically impossible to provide the records within the five-day period. If so, staff shall describe briefly the specific conditions which make a response within the five-day period impossible. In addition, within seven (7) additional days following the provision of this response, the division must provide one of the substantive responses in paragraphs (a) through (d) above.
3. Other Agreements. The above timing requirements will not apply if the division

employee and the requester reach an agreement that the records will be provided later than 5 working days after receipt of the request. In such cases, staff must document the agreed upon date for providing the records.

B. Format and Provision of Records

1. Provision of Records (Not Electronic Records). For requests handled by the FOIA Coordinator, records will be made available for inspection at the central office during regular business hours. If the requester wishes to have a copy of the records, the FOIA Coordinator will make the copies available for pick-up at the central office during regular business hours or, if the records are not voluminous, mail them to the requester by first-class mail. For requests handled by the principal/designee, the same provisions will apply except that the location for inspection and pick-up will be the school.
2. Provision of Records (Electronic Records). Individuals may request copies of any nonexempt public records maintained in an electronic format by the division. Such records shall be reproduced in any tangible medium or format identified by the requester that is regularly used in the ordinary course of business by the Albemarle County Public Schools, including posting the records on a website, burning them to a CD, or delivering the records through an electronic mail address provided by the requester.

The requester may choose to receive electronic records in any format used by Albemarle County Public Schools in the regular course of business. For example, if the requester is requesting records maintained in an Excel database, the requester may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records.

C. Costs for Providing Records

1. Bases for Costs. FOIA allows public bodies to make reasonable charges not to exceed the actual costs of responding to FOIA requests in order to ensure that taxpayer funds are used appropriately for public purposes. Specifically, FOIA permits charging requesters for the staff time spent “accessing, duplicating, supplying, or searching for the requested records,” and for the costs directly related to supplying the records, such as photocopying and CD costs. Attorney review time may not be charged. In addition, the division may 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 public body.”
2. Particular Charges. Generally, there will be no charge for simply viewing or inspecting an official document. In all other instances, the following costs will apply to the provision of records:

- a. Copies of documents and print-outs from electronic documents: Five (5) pages or fewer: no charge. Six (6) or more pages: per page charge based on the estimated actual cost of reproduction/printing per page as determined periodically by the FOIA Coordinator.
- b. Staff time: When 15 minutes or more time is required to access, duplicate, supply, or search for the requested public records, the requester will be charged for the actual time spent by division staff calculated in fifteen minute increments. For example, a response that requires 15 minutes of staff time to retrieve and photocopy documents will incur a charge for 15 minutes, and a response that requires 1 hour of staff time will incur a charge for 1 hour. These charges will reflect the employee's base hourly rate unless the request had to be completed by an employee working overtime, in which case the charge will reflect one and a half times the employee's base hourly rate. For requests that require less than 15 minutes of staff time, the requester will not be charged for staff time.
- c. Materials: For responses provided in an electronic medium, the division will charge the cost of the medium (i.e. CD, DVD, etc.).
3. Estimates and Deposits. If the requester has asked for an advance determination of the cost, or if the cost is expected to exceed \$200.00, ACPS 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. No further action shall be taken until the requester responds, and the requester must agree to pay the estimated amount before any further processing of the request is performed. If money is owed from a previous FOIA request that has remained unpaid for more than 30 days, the division may require payment of the past-due bill before it will respond to a new FOIA request.
4. No Charges for Voluntary Research. If the division chooses on its own to create a new public record or summary to respond to a request in lieu of providing existing public records, the division will not charge the requester the additional staff time incurred in creating the new public record or summary.

Adopted: _____

Legal Ref.: Virginia Code §§2.2-3700 et seq.

Cross Ref. : JO, Student Records
KB, Public Information Program

REQUEST FOR PUBLIC RECORDS

Name _____

Address _____

E-mail address _____

Phone _____

I am a (check one):

- ☐ Citizen of the Commonwealth of Virginia
☐ Member of the Press referenced in Va. Code
 §2.2-3704
 News Organization _____

Identification must be presented prior to inspection of records or receipt of copies. A photocopy of identification is acceptable with a mailed/faxed request.

STAFF USE ONLY

Date Request Received: _____

Request was made (check one)

- ☐ by requester on this form
☐ by telephone
☐ in writing other than on form
 (attach original request)

Date Response Sent: _____
 (attach copy)

- ☐ Identification Verified
 Type: _____
 Number: _____
☐ Itemized Cost Estimate Attached

I am requesting access to the following records (please be as specific as possible, and attach additional paper if necessary):

Reasonable costs may be assessed in connection with this request. If the costs associated with this request are expected to exceed \$200, the requestor will be asked to pay the estimated costs before the request is processed.

In addition, the requestor may ask for an advance determination of the cost of the request. Please indicate here if you would like an advance determination of cost. Yes ____ No ____

If you are requesting copies, please specify the format in which you would like to receive them. BLANK school division will provide the record(s) in the requested format if that medium is used by it in the regular course of its business.

Specify format desired (if available):

- ☐ Photocopies ☐ E-mail (give address): _____
☐ Website posting ☐ Other (please specify): _____

Signature _____

Date _____

RETURN COMPLETED FORM TO:
 ALBEMARLE COUNTY PUBLIC SCHOOLS
 401 MCINTIRE ROAD, CHARLOTTESVILLE, VA 22902

RECORD OF INSPECTION and/or DELIVERY OF COPIES

Inspection of Public Records

Date _____ Time In _____ Time Out _____

Person Inspecting Records

Name Signature

Staff Person in Attendance

Name Signature

Records Reviewed (describe)

Copies of Public Records

<u>Record</u>	<u>No. Pages</u>	<u>Delivery Method</u> (<u>mail, e-mail,</u> <u>etc.</u>)	<u>Date of Delivery</u>	<u>Cost (if any)</u>	<u>Date and</u> <u>Method of</u> <u>Payment</u>
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Staff Person Providing Copies _____
Name Signature