

A QUICK GUIDE TO FREEDOM OF INFORMATION

Board of Regents for Higher Education's Freedom of Information Process

1. An institution department receives a Freedom of Information Act ("FOIA") request. *Note: The institution must typically acknowledge receipt of the request within four (4) business days.*
2. The institution department will perform an initial review of the request, discuss the request with the department or division staff who received the request, where appropriate, and locates the requested records from the relevant divisions within the institution. Where appropriate, the institution department will confer with the Board of Regent for Higher Education's FOI Legal Resource Officer regarding any interpretations of federal or state law (e.g., disclosure exceptions).
3. The institution department contacts the requester to indicate the records are ready for review and informs the requester of any records that will not be disclosed and the legal authority for not disclosing such records.
4. When the requester seeks copies of the records, the institution department will determine the charge and send copies upon arranging for or receiving payment (depending on the volume of the request). Alternatively, the requester may contact the institution department to schedule a time to come to the institution to view the records. The institution department, or its designee(s), will remain with the requester while the records are reviewed.

FOI Contacts

Michael W. Kozlowski
Director of Public Affairs and Marketing
Interim FOI Officer
MKozlowski@commnet.edu or (860) 723-0261

Gregory F. Daniels
Assistant Counsel
FOI Legal Resource Officer
DanielsG@ct.edu or (860) 723-0018

Rev. 3/2015



39 Woodland Street
Room 140
Hartford, CT 06105

860.723.0261
FAX 860.723.
foi@ct.edu



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*An employee resource
for understanding public
records requests made
to public institutions*



Frequently Asked Questions

1. Q: Who can file a Freedom of Information Act (FOIA) request?

A: Any person can file a FOIA request.

2. Q: Is there a form that a person requesting access to public records must use to make requests?

A: No. There are no required forms. However, a public institution may ask a person requesting copies of public records to complete a form prepared by the institution or to make the request in writing.

3. Q: What fees can a public institution charge to provide copies of public records?

A: Public institutions may charge a maximum of twenty-five cents per side of a double-sided sheet. Other fees may be charged for certified copies of public records or for transcriptions, printouts or records on electronic media.

4. Q: How many days does the public institution have to acknowledge receipt of a FOIA request?

A: A public institution must acknowledge receipt of a FOIA request within four (4) business days *after* the public institution receives the request. Day 1 of the 4-day timeline is the first business day *after* the request is received by the public institution. The date that the request was received by the public institution does *not* count as "Day 1." Note: A "business day" or "working day" is a regular day of the week (Monday through Friday) when public institutions and most businesses are open. Saturdays, Sundays and state holidays are not business days and cannot be counted in the 4 business day time period.

5. Q: Can a public institution ask a requester for clarification concerning a request?

A: Yes. Public institutions may request clarification concerning which public record or public records are being requested.

6. Q: How quickly must an institution provide access to, or copies of, public records?

A: A public institution is required to provide "prompt" access to public records. Promptness is a standard determined by consideration of a number of factors such as: how busy the institution is at the time of the request, how time-consuming it will be to comply with the request and the urgency of need for the information contained in the records.

7. Q: What if the public institution uses a different name for a document than the requester when making his/her request? Can the institution deny the requester for that reason?

A: No. The public institution cannot deny the request just because it refers to a record differently than the institution. A requester does not need to describe the record specifically and accurately by the same name the public institution uses. As long as the public institution understands what the requester is requesting, they must determine whether a responsive record exists and whether such record can be release under federal and state law, even if the institution does not call it by the same name the requester uses.

8. Q: When may a public institution refuse to release requested records?

A: The FOIA as well as federal and state law provide that certain categories of documents are not public records. Included among these are records that have been designated confidential by law (e.g., The Family Educational Rights and Privacy Act), documents subject to a recognized legal privilege such as the attorney-client privilege or the work-product privilege, records describing se-

curity plans or procedures, juvenile records, performance and evaluation records of faculty and professional staff and information contained in the "personnel or medical files and similar files" of public employees.

9. Q: What must the public institution do if a public record holds some information that is open to the public and some information that is confidential or falls within an exemption or exception to disclosure?

A: Some public records contain a mixture of information that is public and information that is confidential or otherwise not subject to public inspection under the FOIA. If the requested record contains any confidential, exempt or excepted information, the public institution must decide if the confidential, exempt or excepted information can be adequately redacted or blacked out so that public access can be provided or if public access to the document should be denied.

10. Q: What must the public institution include in a denial?

A: The denial must be in writing, and reference a specific legal reason under the FOIA to justify the non-disclosure of the requested information.

11. Q: Is a public institution required to answer questions under the FOIA?

A: No. The FOIA does not require a public institution to answer questions, render opinions, or provide subjective evaluations. Requesters must ask for existing records.