

PURPOSE

The purpose of 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. 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.

Policy Specifics

The MVDB's Responsibilities in Responding to FOIA Requests

- The MVDB 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, holidays, or other days when the MVDB is closed for business.
- The reason behind your request for public records from the MVDB is irrelevant, and you do not have to state why you want the records before we respond to your request. FOIA does, however, allow the MVDB to require you to provide your name and legal address.
- FOIA requires that the MVDB 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 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.
 - 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 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 you requested). 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 the MVDB 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 an additional seven working days to respond to your request, giving us a total of 12 working days to respond to your 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 your request, giving us a total of 65 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.

Charges

- A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for 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 general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. Prior to conducting a search for records, the public body shall notify the requester in writing that the public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records 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 the MVDB. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. Any charges cannot include general overhead costs.
- If we estimate that it will cost more than \$200 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 when you respond.
- 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. The five days that we have to respond to your 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 you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, the MVDB may require payment of the past-due bill before it will respond to your new FOIA request.

Types of Records

The following is a general description of the types of records held by the MVDB:

- Personnel records concerning employees and officials of the MVDB
- Records of contracts which the MVDB has entered into

MVDB FOIA Policy
Effective Date: 07/01/1996
Approved Revision Date
06/08/2023

Administrative Group
Approval date: July 1, 1996

Executive Director

- Documents related to the licensing and administration of past or current licensed motor vehicle dealers in the Commonwealth of Virginia.

If you are unsure whether the MVDB has the record(s) you seek, please contact the MVDB directly at dboard@mvdb.virginia.gov, or 804-367-1100

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. The MVDB 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))
- Tests and examination scores (§ 2.2-3705 (1))
- All personal identifying information will be redacted such as social security numbers, driver's license numbers, home addresses, personal emails, and personal cell. (§ 2.2-3705.1 (10))

Forms and Related Documents

Authority

2.2-3700

2.2-3704

2.2-3705

2.2-3706

Approval and Revision History

07/01/1996

06/08/2023