

# **FREEDOM OF INFORMATION ACT**

## **W.Va. Code §29B-1-3:**

- **Who at the County Commission handles Public Record Requests**
  
- **Are there any Policies for Handling them?**
  
- **Is there a proper request**
  
- **Are the documents public records**
  
- **Are the documents subject to an exemption**
  
- **Respond within 5 business days**
  
- **Report to the SOS**

The information and materials herein are provided for general information purposes only and are not intended to constitute legal or other advice or opinions on any specific matters and are not intended to replace the advice of a qualified attorney.

## FREEDOM OF INFORMATION ACT W.Va. Code §29B-1-3:

1. The Act provides for public access to "public records" [any writing containing information relating to the conduct of the public's business, prepared, owned and retained by a public body (doesn't have to be "written")].
2. All requests must state with **reasonable specificity** the information sought
3. **Respond in writing** within a **maximum of five business days** by **providing copies** or advise requestor of the time and place **they may inspect and copy** the materials; **or deny** the request stating in writing the reasons for the denial. The Act provides that some records are exempt from disclosure including:
  - a. privileged or confidential commercial, financial or trade secret information
  - b. Information of a *personal nature* such as that kept in a personal, medical or similar file, if the disclosure would be an unreasonable invasion of privacy (an individual can inspect/ copy their own information)
  - c. Test questions, scoring keys and other examination data;
  - d. law-enforcement records dealing with detection and investigation of crime and the internal records and notations for internal use in law enforcement;
  - e. Information specifically exempted from disclosure by statute;
  - f. Description of the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or gifted records which the donor has attached restrictions on usage or handling;
  - g. Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;
  - h. Internal memoranda or letters received or prepared by any public body;
4. Any documents you withhold based on an "internal memoranda or letters" exemption must be listed in an index called a Vaughn index with a relatively detailed justification as to why each document is exempt, specifically identifying the reasons but not be so detailed that it compromises the privilege claimed.
5. Denial must note that the responsibility of the custodian of any public records or public body to produce the requested records or documents is at an end, and shall afford the person requesting them the opportunity to institute proceedings for injunctive or declaratory relief in the circuit court in the county where the public record is kept.
6. Information about completed FOIA requests must be entered into the Secretary of State's online database after completing a FOIA request.  
<https://sos.wv.gov/about/Pages/FOIAReq.aspx>