

FOIA Policy Statement:

The purpose of this policy is to assure access to records in the custody of the Westmoreland County Circuit Court Clerk's Office; to provide guidelines on availability of records; and to establish authority for carrying out the provisions of the Freedom of Information Act, Section 2.2-3704 of the Code of Virginia. The Clerk of Court is responsible for FOIA policy development, the coordination of multi-department requests, tracking of FOIA requests, and training appropriate staff on how to respond to FOIA requests.

Definitions or Background:

Freedom of Information Act: The Virginia Freedom of Information Act (FOIA) allows public access, by Virginia residents, to the official records of public bodies such as the county government.

The term "public records" means all writings and recordings that consist of letters, words or numbers prepared, owned, or possessed by a public body, regardless of their physical form or characteristics or the manner in which they are stored. Written, printed, magnetic, and electronic records, among other forms, are included if they have been prepared or accumulated in the transaction of public business.

Certain types of records including, but not limited to, personnel and medical records; vendor proprietary information; attorney client privileged records; records related to negotiations of a contract; acquisitions of capital property and equipment, etc. are exempt from disclosure under FOIA or other laws. The FOIA Records Custodian should contact the County Attorney's office if there is uncertainty as to an exemption that applies to a specific record.

Requests for public records can be made verbally; however, departments are encouraged to ask that requests be made in writing so that both the requester and the County may have a record of what the requester is seeking, and unnecessary delays may be avoided. Requesters should be referred to public counters to view documents that can be easily accessed by the public, in an effort to eliminate cost to the resident.

Procedures:

It is the policy of this Office to facilitate public access to the official records of the County, to make such records available and to respond to requests for access in a timely fashion.

Official records shall be open to inspection and/or copying during regular office, unless they are records which are excluded from the Act's coverage.

Requests for official County records pursuant to the Virginia Freedom of Information Act must designate the record(s) sought with reasonable specificity. The requested records must normally be provided for review by the requesting citizen within five (5) business days after receipt of the request.

Since complicating and legal factors may have to be considered in some cases or the request is so extensive or complicated that it is not practically possible to provide the records or to determine if they are available within five days' notice will be sent to the requestor specifying the conditions that make a response impossible. Provided this response is made within the initial 5-day period, the Clerk's Office will have an additional 7 business days to respond.

If a request for clarification must be made by staff, the clock stops until clarification is given by the requestor. For multi-department requests, the FOIA Officer will handle contacting the requestor. The Clerk's Office is not obligated to compile information or reports which are not in existence.

Charges

Generally, when minimum search time is required, there will be no charge for the viewing only of a public record. Deputies are permitted to waive fees for minimal research, small number of documents, and/or electronic copies. As a general guideline, fees for copies are \$.50 per page. When **extensive search time is required** to provide the document(s) for viewing, or when copies of such documents are requested, the requesting party should be charged as outlined in the following guidelines.

- The cost of staff time is calculated by multiplying the hourly wage of each staff member (not an average) involved in responding to the request by the number of hours that employee spends on the request.
- Standard 8.5 X 11 copy charges shall not exceed \$.50.
- Requests to provide information and records in computerized or audio-visual formats (e.g., on CDs or DVDs) and geographic information system requests may be charged according to actual staff time and the cost of materials (CDs or DVDs).
- Electronic copies may be provided. The requestor may be charged for actual staff time needed to produce the documents. Charging the requestor for staff time is at the discretion of the Clerk, based on the extent of the research needed to retrieve the records.
- For documents or other requests not specifically listed in this section, the charge for the records shall be calculated based on the actual cost to the County of searching for and providing the document, including the cost of materials and any associated staff time.
- When requested, staff shall provide a written estimate to the requester of the amount that may be charged. If staff determines that charges for producing the requested records are likely to exceed \$200, the requester may be required to agree to the payment of a deposit, not to exceed the estimated amount, before continuing to process the request. The deposit shall be credited toward the final cost of supplying the requested records. In the event the actual cost of providing the records is less than the deposit, the difference must be refunded to the requester. Deputies are encouraged to request a deposit as appropriate and have the requester's agreement to pay the deposit in writing. Estimates should be made as soon as possible after receiving the request.
- Charges may be paid using cash, credit card, or check made payable to Westmoreland Circuit Court. A receipt will be provided to the requester.
- In the event a requester has failed, for at least 30 days, to pay the charges for a previous request under FOIA, the Clerk's Office is not required to respond to a new FOIA request until those charges are paid in full. The requester must be notified that the request cannot be fulfilled for this reason (FOIA, Section 2.2-3704 of the Code of Virginia).