

Illinois Freedom of Information Act

The Illinois Freedom of Information Act (FOIA) is designed to ensure that the public has access to information about their government and its decision-making process. As a government body, NTRA, Inc. has a duty to ensure that Illinois residents can obtain information about their government.

Effective January 1st, 2010, the Illinois Freedom of Information Act has been amended. Please read more about the law and its changes below.

The NTRA, Inc.'s designated Freedom of Information Officer is Sarah Doak.

FOIA requests can be e-mailed to: ntrainc@gmail.com

FOIA requests can also be made in writing and mailed:

NTRA, Inc.
200 Carolina Street
PO Box 508
Washington IL 61571

OVERVIEW

What is FOIA?

The Freedom of Information Act (FOIA) is a state statute that provides the public the right to access government documents and records. The premise behind FOIA is that the public has a right to know what the government is doing. The law provides that a person can ask a public body, including NTRA, Inc., for a copy of its records on a specific subject and the public body must provide those records, unless there is an exemption in the statute that protects those records from disclosure (for example: records containing information concerning trade secrets or personal privacy).

Who is subject to FOIA?

Public bodies are subject to FOIA. The judiciary is not subject to FOIA, but court records and proceedings generally are open to the public.

Who can file a FOIA request?

Anyone. Any person, group, association, corporation, firm, partnership or organization has the right to file a FOIA request to any state or local public body, including any city, township or county office.

Is every public body required to have a designated FOIA officer?

Yes. Every public body must designate at least one person to act as the FOIA officer. Public bodies may have more than one FOIA officer. In addition, every public body must prominently display at its office and make available certain information, including the name(s) of its FOIA officer(s). The office also must display and make available:

1. Information on how to submit a FOIA; and
2. A brief description of the office, including its purpose, budget and number of employees. Any public body that has a website must also post this information on its website.

RESPONDING TO FOIA REQUESTS

How many days does the public body have to respond to a FOIA request?

5 business days from the day after the public body receives the request. However, that time period may be extended for an additional 5 business days from the date of the original due date if:

1. The requested information is stored at a different location;
2. The request requires the collection of a substantial number of documents;
3. The request requires an extensive search;
4. The requested records have not been located and require additional effort to find;

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5. The requested records need to be reviewed by staff who can determine whether they are exempt from FOIA;
6. The requested records cannot be produced without unduly burdening the public body or interfering with its operations; or
7. The request requires the public body to consult with another public body that has substantial interest in the subject matter of the request.

If additional time is needed, the public body must notify the requestor in writing within 5 business days after the receipt of the request of the statutory reasons for the extension and when the requested information will be produced.

What is a “business day” or “working day”?

A “business day” or “working day” is a regular day of the week (Monday through Friday) when public offices and most businesses are open. Saturdays, Sundays and legal holidays are not business days and cannot be counted in the 5 business day time period.

When does the 5 business day time period start?

On the first business day after the public body receives the request. Day 1 of the 5-day timeline is the first business day after the request is received by the public body. The date that the request was received by the public body does not count as “Day 1.”

Does the 5 business day response period begin the day after the FOIA officer’s receipt of the request, or the day after receipt of the request by any of the public body’s employees or officials?

The 5 working day response timeline begins the day after any employee or official of the public body receives the request for information. Employees and officials of a public body must immediately forward all requests for information to the FOIA officer(s) to maximize the response time.

When is a FOIA request sent by e-mail “received”?

When it appears in the electronic mailbox or when it is opened by the recipient? If a FOIA request sent by e-mail appears in the recipient’s mailbox during normal working hours, it is received on that day. If it is e-mailed after business hours, including on a weekend or legal holiday, it is “received” on the following business day.

If a public body’s office is closed for vacation (for instance, a public school is closed for winter break), are FOIAs submitted during that time considered received?

Yes. FOIA does not have any exceptions for vacations or winter breaks, other than for Saturdays, Sundays and legal holidays.

Can a requestor and a public body agree to extend the deadline to respond beyond 10 days?

Yes, but the agreement must be in writing. The agreement will also relieve the public body of having to comply with other legal deadlines in FOIA.

Can a public body require that a FOIA request be submitted on a certain form or in a certain format?

No. Public bodies can require that FOIA requests be submitted in writing, but public bodies must accept requests by mail, personal delivery, fax, e-mail, or other means available. Public bodies may create a FOIA form that requestors may use for convenience, but public bodies cannot require that requestors use a specific form for the request. Public bodies may choose to accept oral FOIA requests but are not required to do so by the law.

To whom should the requestor submit a FOIA request?

To a designated FOIA officer. Every public body must designate at least one FOIA officer and prominently display at its office certain information, including the name(s) of its FOIA officer(s).

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Does the public body have to identify the FOIA officer?

Yes. Each public body must prominently display and make available upon request a directory designating the FOIA officer(s) for that body and the address where record requests should be sent. If the public body has a website, this information must also be posted on it.

How many times can a requestor ask for the same information?

Section 3(g) of FOIA provides that repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied shall be deemed unduly burdensome under FOIA. More than two requests would be deemed "repeated" for purposes of Section 3(g).

What information must a public body withhold or redact under the Freedom of Information Act?

Although there may be legitimate reasons to redact or withhold certain types of information, the only information that the Freedom of Information Act requires a public body to redact are the home addresses, home/private telephone numbers and social security numbers of employees noted on certified payroll records that are required to be submitted to a public body under the Prevailing Wage Act.

Does a requestor need to specifically and accurately describe the document he or she is looking for?

No. The requestor does not need to describe the document specifically and accurately by the same name the public body uses. As long as the public body understands what is being requested, it must release that information, even if the requested information is not called by the same name the public body uses.

Can a request be made anonymously? For instance, e-mail requests are often submitted anonymously.

Yes. A requestor is not required to provide his or her name.

FEES

Can the public body charge for copies?

Yes, but the charges are limited. For black and white, letter or legal sized copies (8 ½ x 11 or 11 x 14), the first 50 pages are free, and any additional pages can cost no more than 15 cents a page. For color copies or abnormal size copies, the public body can charge the actual cost of copying.

Can a public body charge for electronic copies?

Yes, but only for the actual cost of the recording medium. For example, if information is produced on CDs, the public body may only charge the actual cost of purchasing the CDs.

Can the public body require receipt of the payment from the requestor before making the requested copies?

Yes.

GETTING INFORMATION IN AN ELECTRONIC FORMAT

Can the requestor request the documents in electronic form?

Yes and the public body must provide the electronic documents in the requested format, if that is feasible for the public body. If that format is not available to the public body, it must provide the documents in the electronic format in which they are kept or in paper, at the option of the requestor.

If a public body must purchase a program to make certain information available in the electronic format requested by the requestor, does the public body have to make that purchase?

No. When a person requests a copy of a record maintained in an electronic format, the public body must provide it in the electronic format specified by the requester, if it is feasible for the public body to do so. If it is not feasible to furnish the public record in the specified electronic format, then the public body must furnish it in the format in which it is maintained by the public body, or in paper format, at the option of the requester.

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If the public body has a database and the requested information requires that the public body do a search of that database, does the public body have to conduct that search?

Yes and the public body cannot charge the requestor for that search.

Are e-mails subject to FOIA?

Yes. All electronic communications (as long as they do not fall within an exemption) are subject to FOIA.

LAW ENFORCEMENT FOIA REQUESTS

A police and/or incident report is prepared in connection with a domestic violence call that includes the name of the neighbor who called the police. Charges are not filed and subsequently the alleged abuser submits a FOIA request to obtain the documents that contain the complainant's information. Can that information be redacted?

The police department may redact information that is exempt under Section 7(1)(d) of the Act. Section 7(1)(d)(iv) allows police departments to redact (or withhold) information that unavoidably discloses the identity of persons who file complaints with the police. Section 7(1)(d)(vi) exempts information which, if disclosed, would endanger the life or physical safety of law enforcement personnel or any other person.

REQUESTOR'S OPTIONS IF THE PUBLIC BODY FAILS TO RESPOND OR DENIES HIS/HER REQUEST

What happens if the public body doesn't respond to a FOIA request?

If the public body does not respond to a request within 5 business days of receiving it, that inaction is considered a denial of the request. If that occurs, a requestor can either file a Request for Review with the Attorney General's Public Access Counselor or file a case in court.

What must the public body include in a denial?

The denial must be in writing and reference a specific legal reason under FOIA to justify the non-disclosure. A public body has the burden of proving by clear and convincing evidence that the information is exempt from disclosure. The denial also must inform the requestor of the right to seek review of the issue by the Public Access Counselor in the Attorney General's office, with the PAC's contact information, as well as the right to seek judicial review by filing a court case.

What can the requestor do if the public body denies the request for information?

The requestor can file a Request for Review with the Attorney General's Public Access Counselor within 60 calendar days from when the alleged violation occurred. Alternatively, the requestor may file a civil action in the circuit court within two years after the alleged violation took place.

What is a Request for Review to the Public Access Counselor?

A Request for Review is a letter that a requestor may submit to the PAC if he or she believes that the public body has not followed FOIA. This letter is a formal way of asking the PAC to take a look at the request and the public body's response (or lack of a response) and determine if a FOIA violation has occurred. The request must be in writing, be signed by the requestor, and include a copy of the FOIA request and any responses from the public body. It must be submitted to the PAC within 60 calendar days of the public body's final response (or the date upon which the response was due).

Is there a deadline for submitting a Request for Review?

Yes. The requestor must submit a Request for Review to the PAC within 60 calendar days after the date of the final denial from the public body (or the date upon which the response was due).

How do I contact the Public Access Counselor's Office?

The Public Access Counselor is a part of the Public Access Bureau in the Attorney General's Office. Here is the contact information:

Public Access Bureau
500 S. 2nd Street

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Springfield, Illinois 62706
217-558-0486
publicaccess@atg.state.il.us

What happens if someone submits a Request for Review with the PAC and what are the responsibilities of the public body?

The PAC will review all requests and will do one of three things:

1. Decide that no further action is necessary. If the PAC decides that the alleged violation is unfounded, the PAC will advise the requestor and the public body of that decision. At this point, the public body does not need to take any further action.
2. Request more information from the public body. If more information is needed to review the issue, the PAC may, within 7 working days after receipt of the Request for Review, send a copy of the Request to the public body and ask for any records the PAC needs to complete the review. At this point, the public body must submit the requested information to the PAC within 7 working days. Please note that the Attorney General's office has the authority to issue a subpoena for this information if the public body fails to respond fully to the PAC's request.
3. The PAC may also try to resolve the FOIA dispute through mediation or other informal means. The public body should work with the PAC and the requestor to resolve the dispute.

When will the PAC issue a final decision?

If the PAC decides to issue a binding opinion, the PAC will issue that opinion within 60 calendar days after receiving all the information needed to decide the matter. The PAC may extend the 60-day time period by 21 working days by sending a written notice to the requestor and the public body. This written notice must include the reasons for the extension.

What are the different possible outcomes of a Request for Review by the PAC?

There are multiple ways the PAC may respond to a Request for Review:

1. Work to resolve the FOIA dispute with the public body and the requestor. (5 ILCS 140/9.5(f)) The PAC may choose to try to resolve the dispute through mediation or by means other than the issuance of a binding opinion. The PAC's decision to decline to issue a binding opinion is not reviewable.
2. Review the issues in the FOIA dispute and determine that no further action is necessary. (5 ILCS 140/9.5(c)) If the PAC decides that the alleged violations of FOIA are unfounded, the PAC will advise the requestor and the public body of that decision. The PAC will not conduct any further review.
3. Issue a binding opinion. (5 ILCS 140/9.5(f)) After obtaining and reviewing any information needed to analyze the FOIA dispute between the requestor and the public body and any additional information that the requestor or the public body chose to provide, the PAC may issue a binding opinion. If the opinion orders the public body to produce records, the public body may appeal the opinion to the circuit court. If the public body does not appeal the opinion and fails to disclose the records as ordered by the opinion, the Attorney General's office may sue the public body to enforce the opinion. If the opinion concludes that the records fall within a FOIA exemption and need not be disclosed, the requestor may appeal the opinion to the circuit court.

EXEMPTIONS – RECORDS THAT ARE NOT PUBLIC

What is considered a “public record”?

“Public records” are defined in FOIA as “all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.” (5 ILCS 140/2(c)) Given this broad definition, FOIA is intended to cover any document, regardless of form, that pertains to government business.

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Does “public record” include electronic information?

Yes. FOIA defines public records to include electronic documents and communications. When a person requests a record that is maintained in an electronic format, the public body must provide it in the electronic format specified by the request, if that is feasible for the public body. If it is not feasible, the public body must present the information in the format in which it is maintained by the public body or in a paper format at the option of the requestor. The public body may charge a fee for the actual cost of purchasing the recording medium, such as the CD, but may not charge a fee for its search for or review of the information.

What kind of information can I not get access to?

The FOIA law has a presumption that all information is public, unless the public body proves otherwise. There are several exceptions to public disclosure that include but are not limited to:

1. Private information – “Private information” is exempt from disclosure under FOIA. FOIA defines “private information” as “unique identifiers, including a person’s social security number, driver’s license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses.” Under FOIA, “private information also includes home addresses and personal license plate numbers, except as otherwise provided by law or when compiled without possibility of attribution to any person.”
2. Personal information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the person who is the subject of the information. Under FOIA, the “unwarranted invasion of personal privacy” means the “disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” Disclosing information that relates to the public duties of public employees is not considered an invasion of personal privacy.
3. Law enforcement records that, if disclosed, would interfere with a pending or reasonably contemplated proceeding or that would disclose the identity of a confidential source.
4. Information that, if disclosed, might endanger anyone’s life or physical safety.
5. Preliminary drafts or notes in which opinions are expressed or policies are formulated, unless the record is publicly cited and identified by the head of the public body.
6. Business trade secrets or commercial or financial information that is proprietary, privileged or confidential and disclosure would cause a competitive harm to the person or business.
7. Proposals and bids for any contract, until a final selection is made.
8. Requests that are “unduly burdensome.”

What does “unduly burdensome” mean?

A FOIA exemption exists for requests that are unduly burdensome. A request may be considered unduly burdensome if there is no way to narrow the request, and the burden on the public body to produce the information outweighs the public interest in the information. However, before relying on this exemption, the public body must first give the requestor an opportunity to reduce the request to a manageable size. If it is still unduly burdensome, the public body must explain in writing the reasons why the request is unduly burdensome and the extent to which compliance will burden the operations of the public body. Such a response is considered a denial.

What is a “clearly unwarranted invasion of personal privacy”?

FOIA contains an exemption for records that, if disclosed, would result in a “clearly unwarranted invasion of personal privacy.” An “unwarranted invasion of personal privacy” means the “disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” Under FOIA, the disclosure of information that relates to the public duties of public employees is not considered an invasion of personal privacy.

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COMMERCIAL REQUESTS

What is a request for information made for a commercial purpose?

A commercial request is when the requester seeks to use part or all of the public records for sale, resale, or solicitation or advertisement for sales or services. Requests by the news media, not-for-profit organizations, scientific or academic institutions are not considered commercial information requests.

Are commercial information requests treated differently?

Yes. A public body has 21 business days to respond to a request for information that is made for a commercial purpose. The public body can either: (1) provide the requested records; (2) advise when the records will be provided and the costs; (3) deny the request (if it falls under an exception); or (4) advise the requestor that the request is unduly burdensome.

Can the public entity charge fees for copies of the information?

Yes, but the fees are limited. For traditional black and white, letter or legal sized copies (8 ½ x 11 or 11 x 14), the first 50 pages are free, and any additional pages can cost no more than 15 cents a page. For color copies or abnormal size copies, the public body can charge the actual cost of copying.

REDACTIONS

Can a public body remove or black out information from produced documents?

Yes, if a record contains information that is exempt from disclosure under FOIA, a public body can remove or black out that exempt information from the public records. This is called "redaction." But the public body must produce the remaining information.

Is there any information that a public body MUST withhold or redact?

Although there may be legitimate reasons to redact or withhold certain types of information, the only information that the Freedom of Information Act requires a public body to redact are the home addresses, home/private telephone numbers and social security numbers of employees noted on certified payroll records that are required to be submitted to a public body under the Prevailing Wage Act.