

## VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND

<b>TITLE: Costs and Procedures for Record Requests</b>	<b>POLICY NUMBER: G029</b>
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**REVISED DATE: November 9, 2010**

### **Policy Statement:**

The Virginia School for the Deaf and the Blind, in establishing a system for reasonable charges for copying records, will abide by the Virginia Freedom of Information Act to ensure that the people of the Commonwealth have ready access to records in the custody of this facility. Official records will be open for inspection and copying during the regular office hours of the custodian of the record. Reasonable efforts will be made to reach an agreement with a requester concerning the production of the record(s) according to the developed procedures.

### **Procedure:**

1. The Virginia School for the Deaf and the Blind has established a system for reasonable charges for copying records when requested by an employee or other individuals and/or groups external to the agency. These charges are for employee/student records and associated materials as may be requested.
2. The first 25 pages will be at no charge to the individual making the request. However, student IEP, transcripts, triennial information and most recent testing scores will not be included in the first 25 pages, thus the requester will not be charged for this information. After the first 25 pages a cost of five (5) cents will be made for each copy charged. An hourly rate will be charged for the time that it takes the employee monitoring the requester as he/she goes through the files to determine which pages need to be copied and for the employee who is doing the copying (charged up to the nearest ¼ hour). The cost will be determined by the Human Resources Office, to be based upon the current salary of such employee. The requester will be apprised of the hourly rate.
3. The individual requesting such records beyond the 25 pages will sign an agreement attesting to such charges before copies are made. Copies which may exceed \$200.00 would require the requester to pay the estimated cost prior to copying as per policy.

## **Rights & Responsibilities**

### **The Virginia Freedom of Information Act**

The Virginia Freedom of Information Act (FOIA), located § 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.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that 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.

#### **Your FOIA Rights**

- You have the right to request to inspect **or** receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA.

#### **Request for records from the Virginia School for the Deaf and the Blind**

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA.
  - From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request if you elect to not put it in writing.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we can identify and locate the records that you are seeking.

- Your request must ask for records or documents. FOIA gives you a right to inspect or copy **records**; it does not apply to a situation where you are asking general questions about the work of VSDB.
- You may choose to receive electronic records in any format used by VSDB in the regular course of business.
  - For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records
- If we have questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.

**To request records from VSDB-S, you may direct your request to Jane Nessar, Admissions Coordinator. She can be reached at PO Box 2069, Staunton, VA 24402, 540-332-9004, 540-332-9042, Jane.Nessar@vsdb.k-12.va.us. You may also contact her with questions you have concerning requesting records from VSDB. In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at foiacouncil@leg.state.va.us, or by phone at (804) 225-3056 or [toll free] 1-866-448-4100.**

### **VSDB's Responsibilities in Responding to Your Request**

- VSDB 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 or holidays.
- The reason behind your request for public records from VSDB is irrelevant, and we cannot ask you why you want the records before we respond to your request. FOIA does, however, allow VSDB to ask you to provide your name and legal address.
- FOIA requires that VSDB 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 withholds 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) If it is practically impossible for VSDB 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 seven additional working days to respond to your request, giving us a total of 12 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 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.

### **Costs**

- You may have to pay for the records that you request from VSDB. 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. It 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 before proceeding with your request.
- 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.

### **Commonly used exemptions**

The Code of Virginia allows any public body to withhold certain records from public disclosure. VSDB 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))