

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 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.

What is 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.” A few examples of public records available under FOIA are: orders, rules, reports or studies, contracts, names, titles and salaries of public employees, and the voting records of public bodies. Information can be available in electronic as well as paper format.

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:

- Information on how to submit a FOIA and
- 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.

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:

- The requested information is stored at a different location;
- The request requires the collection of a substantial number of documents;
- The request requires an extensive search;
- The requested records have not been located and require additional effort to find;
- The requested records need to be reviewed by staff who can determine whether they are exempt from FOIA;
- The requested records cannot be produced without unduly burdening the public body or interfering with its operations; or
- 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.

Is there any way for a public body to toll the 5-day response period?

No. There are only two situations in which the time period is tolled (stopped) for the public body to respond to a FOIA request. The time period is tolled if the public body intends to withhold information from disclosure because either the disclosure would result in an unwarranted invasion of personal privacy or the information falls into the exemption for preliminary policy drafts. In these two situations, the public body must provide written notice to the Attorney General's Public Access Counselor, (PAC) before asserting either exemption. Once the PAC receives the written notice, the PAC has 5 working days to determine if further inquiry is necessary. If the PAC decides that further inquiry is necessary to determine if either exemption may be used, the timeline for a Request for Review begins, and the public body must provide any information requested by the PAC within 7 working days after receiving the PAC's request. During the time period that the PAC is reviewing whether

a public body can assert either exemption, the clock stops running for the public body to respond to the FOIA request.

More information can be obtained on the Attorney General's website (www.illinoisattorneygeneral.gov) or at the LLUD office at 815-652-3494.