

FOIA AND THE GENERAL ASSEMBLY

Records

Under FOIA, you **do not** have to release, *but in your discretion you may release* (i.e. public disclosure is not prohibited):

- Correspondence or working papers. “**Working papers**” are those records prepared by or for you for your personal or deliberative use. Includes legislative aides working on your behalf. However, **no record**, which is otherwise open to inspection under FOIA, shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.
- Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

FREEDOM OF INFORMATION ADVISORY

COUNCIL, A LEGISLATIVE AGENCY

*A resource for your FOIA questions*

\*\*\*\*\*

Statutory Charge

1. Furnish, upon request, **advisory opinions or guidelines** on the Freedom of Information Act (§ 2.2-3700 et seq.) to any person or agency of state or local government, in an expeditious manner;
2. **Conduct training seminars and educational programs** on the Freedom of Information Act;
3. **Publish educational materials** on the Freedom of Information Act.

Staff

**Alan Gernhardt**, *Executive Director*

**Joe Underwood**, *Senior Attorney*

Email: [foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov)

Telephone (804) 698-1810

Toll-Free 1-866-448-4100

<http://foiacouncil.dls.virginia.gov>

The Freedom of  
Information Act and  
The General Assembly:  
*A Guide for Legislators*



*Prepared by the Freedom of Information  
Advisory Council, a legislative agency*

**FOIA AND THE GENERAL ASSEMBLY**

**POLICY OF FOIA**

*By enacting this chapter, the General Assembly ensures the people of the Commonwealth ready access to records in the custody of public officials and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government.*

*Unless a public body or public official specifically elects to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.*

**FOIA AND THE GENERAL ASSEMBLY**

**MEETING REQUIREMENTS**

**What is considered a MEETING under FOIA for General Assembly members?**

**ONLY the following types of gatherings of General Assembly members must be OPEN and are subject to FOIA:**

- Floor sessions of either house of the General Assembly;
- Meetings, including work sessions, of any standing or interim study committee of the General Assembly;
- Meetings, including work sessions, of any subcommittee of such standing or interim study committee;
- Joint committees of conference of the General Assembly;
- Or a quorum of any such committees or subcommittees.

**Other FOIA provisions particular to the gatherings of members of the General Assembly:**

- **Political party caucuses** are not "meetings" subject to FOIA.
- **NO** regular, special, or reconvened session of the General Assembly may be held by **electronic means** (i.e. conference calls, video conferencing, etc.). BUT each house has constitutional authority to set its own rules of procedure.

**Statutory reference:** Va. Code § 2.2-3707.01

**FOIA AND THE GENERAL ASSEMBLY**

**Other relevant FOIA provisions:**

- **NO MINUTES** are required for meetings of standing and other committees of the General Assembly.
- **VOTING:** NO secret or written ballots.
- **POLLING:** You **MAY** contact members **separately** to ascertain their positions by phone, letter or email. **REMEMBER:** This provision cannot be used in lieu of a meeting—only for its stated purpose.
- **CLOSED MEETINGS:** Allowed **only** as specifically authorized by FOIA and require valid motion.
- **Meetings exceptions:** Nothing in FOIA prohibits the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business; or ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to discuss or transact public business.