

**ARLINGTON DISTRICT
FREEDOM OF INFORMATION LAW POLICY**

Revised: 08/18/11- BOFC approved 09/08/11

The Arlington District (“District”) shall abide by the New York State Freedom of Information Law.

Purpose

It is the intent of this policy to enhance access to public records. This policy is drafted in accordance with the Freedom of Information Law of the State of New York.

Designation of Records Access Officer

The Secretary for the District shall be deemed the Records Access Officer. In her absence, the Chief for the District shall be deemed the Records Access Officer for the duration of the Secretary’s absence. The duties of the Records Access Officer shall be as recommended by the State of New York in rules published by the Committee on Public Access to Records, rule 1401.2.

Location of Records

Records viewable for public inspection shall be made available at the office of the Secretary of the District during the hours listed below. This is not to require that all records be maintained or stored at that location but only that they are made viewable at that location. This also does not require that all requests for inspection be complied with upon submission, but instead as later dictated by this policy.

Access to Viewing Records / Hours for Inspection

Records that are exempt shall be made available at a reasonable time that is agreeable with the Records Access Officer and the requester of the records. Reasonable times for the inspection of records shall be Monday through Friday, from 9am to 2pm., during non-holidays.

Fees

There shall be no fees to produce a record for inspection that exists presently on paper or for documents in electronic format.

The fee for copies of records shall be twenty-five cents per photocopy and not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record.

For media type requests, (i.e. CD / DVD/ PHOTOGRAPHS), the actual cost of the media will be charged.

The requester will be notified in advance if any payment is required and documents will not be released until payment is made in full.

Public Documents Defined

Documents which must be made public include:

- (1) Minutes of meetings and hearings;
- (2) Internal and external audits and financial records and statements;
- (3) Itemized records of the names, titles and salaries of paid officers and employees.

Documents Which are Not Public

Not all documents must be made public by the District. The District may deny access to records or portions thereof that:

- (1) are specifically exempted from disclosure by state or federal statute;
- (2) if disclosed, would constitute an unwarranted invasion of personal privacy, as described below or would impair present or imminent contract awards or collective bargaining negotiations;
- (3) are trade secrets or are submitted to the District by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise;
- (4) are compiled for law enforcement purposes and which, if disclosed, would:
 - a. interfere with law enforcement investigations or judicial proceedings;
 - b. deprive a person of a right to a fair trial or impartial adjudication;
 - c. identify a confidential source or disclose confidential information relating to a criminal investigation;
 - d. reveal criminal investigative techniques or procedures, except routine techniques and procedures; or
 - e. if disclosed could endanger the life or safety of any person.
- (5) inter-District or intra-District materials which are not:
 - a. statistical or factual tabulations or data;
 - b. instructions to staff that affect the public;
 - c. final District policies or determinations; or
 - d. external audits, including but not limited to audits performed by the comptroller and the federal government.
- (6) are examination questions or answers which are requested prior to the final administration of such questions;
- (7) if disclosed, would jeopardize the District's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures; or
- (8) are photographs, microphotographs, videotape or other recorded images prepared under authority of section eleven hundred eleven-a of the vehicle and traffic law.

Right to Protect Personal Privacy

Documents do not have to be disclosed if they would result in an invasion of the personal privacy of the members or employees of the District. The rules on an invasion of personal privacy are as follows:

An unwarranted invasion of personal privacy includes, but is not limited to:

- (1) disclosure of employment, medical or credit histories or personal references of applicants for employment;
- (2) disclosure of items involving the medical or personal records of a client or patient in a medical facility;
- (3) sale or release of lists of names and addresses if such lists would be used for commercial or fund-raising purposes;
- (4) disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or the District in maintaining it; or
- (5) disclosure of information of a personal nature reported in confidence to the District and not relevant to the ordinary work of the District; or
- (6) information of a personal nature contained in a workers' compensation record, except as provided by section one hundred ten-a of the workers' compensation law.

Disclosure does not constitute an unwarranted invasion of personal privacy:

- (1) when identifying details are deleted;
- (2) when the person to whom a record pertains consents in writing to disclosure;
- (3) when upon presenting reasonable proof of identity, a person seeks access to records pertaining to him.

No Requirement to Create Records

Nothing requires the District to prepare any record not possessed or maintained by the District, except that if the file is on a computer program, reasonable efforts shall be made to extract the data including minor programming. If the document does not exist, the District will notify the person making the request that the District does not maintain the document.

Procedures Upon Receiving FOIL Request

The District, within five business days of the receipt of a written request for a record reasonably described shall:

- (1) Make such record available to the person requesting it; or
- (2) Deny such request in writing; or

- (3) Furnish a written acknowledgement of the receipt of such request and a statement of the approximate date, which must be reasonable under the circumstances of the request, when such request will be granted or denied.

The term “reasonably described” means that the request is clear and concise and can be easily understood. Requests that are not clear can be denied.

If the District determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty (20) business days from the date of the acknowledgement of the receipt of the request, the District will state, in writing, the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part. The failure to conform to these requirements constitutes a denial on the part of the District.

Such records that require a fee to be paid, the District will not release such records until payment is received in full by the requester. The person making the request may also demand that the District certify the accuracy of the documents. Alternatively, the District may certify that it does not have possession of the documents or that it cannot find the documents after making a diligent search for them.

An acceptable certification is as follows, and should be signed by the person that maintains the document in the ordinary course of business.

XXXXX, the secretary of the District, hereby certifies and avers that I have produced a true and accurate copy of the document as requested. I maintain the original in the ordinary course of business of the District.

Appeals of Denials to Records

A person denied access to a record has thirty (30) days from the date of the denial to appeal the denial in writing. The denial must be presented to the Board of Fire Commissioners. The Board shall have ten (10) business days after the receipt of the appeal to decide the appeal. The Board shall provide a written decision to the requestor and shall also notify the Committee on Open Government of the appeal and send a copy of the appeal and the determination to the committee.

Such copies shall be addressed to:

Committee on Open Government
Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231