

## What Can I Do if My Records Request is Denied?

A citizen who believes a public body other than a State agency wrongfully denied access to public records can file suit in state court or submit a petition to the Attorney General's Office, which will investigate and determine whether the public body violated FOIA. A citizen who believes a State agency wrongfully denied access to public records can file suit in state court or submit a petition within 60 days to the Chief Deputy Attorney General, who will investigate and determine whether the State agency violated FOIA. The Attorney General may file suit on behalf of a citizen to compel the public body to comply with FOIA.



### **The Town of South Bethany**

You may contact the FOIA Coordinator with any FOIA-related questions you may have. To make an official FOIA request, it must be made in writing either via the Town website online form, email, letter, fax, or FOIA form, which can be found on the Town website under "Connect/FOIA Request Form."

**Website:** <https://southbethany.delaware.gov>

## A Guide to the Freedom of Information Act (FOIA)

### **A Guide to the Freedom of Information Act (FOIA) & What it Can Do For You**



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## What is FOIA?

The Freedom of Information Act (29 Del. Code, Chapter 100) establishes that "it is vital in a democratic society that public business be performed in an open and public manner" and that "it is vital that citizens have easy access to public records in order that the society remain free and democratic."

The Freedom of Information Act, Delaware's "sunshine law," helps ensure transparency and government accountability through informed citizens. Specifically, it gives **Delawareans** the right to:

- Access public records
- Be made aware of and attend gatherings of public bodies where public business will be discussed or conducted
- Challenge a public body's denial of access to records or actions taken by a public body at a meeting that violated FOIA

FOIA also imposes certain obligations on public bodies, including the duty to:

- Provide reasonable assistance to the public in identifying and locating public records
- Give advanced public notice of meetings and provide meeting agendas beforehand
- Prepare meeting minutes and make those minutes available for public inspection

The Delaware Department of Justice helps enforce FOIA in several ways. Its Civil Division provides legal advice to many State agencies, including guidance on meeting their obligations under FOIA. It is also charged with investigating complaints by citizens who believe their rights under FOIA have been violated by state and local public bodies.

## How Can I Look at Public Records Under FOIA?

A Delawarean can submit a detailed written request to the public body. Requests may be submitted in person, by mail, email, or fax. Public bodies are also required to accept online requests; an online request form for the Town of South Bethany are available at <https://southbethany.delaware.gov/foia/>. Other public bodies maintain their own online request portals. Public bodies must designate a FOIA coordinator to assist citizens in obtaining records and to assist the public body in locating and providing them. Public bodies must generally respond within 15 business days. If a request is granted, citizens can inspect the records or obtain copies during regular business hours. Public bodies are not required under FOIA to create documents or reports, but rather give access to already existing documents.

## What Records Are Not Public Under the Law?

Certain files, records and information are exempt under FOIA from public inspection. They include:

- Personnel, medical and pupil files;
- Trade secrets and confidential commercial or financial information;
- Civil or criminal investigatory files;
- Records pertaining to pending or potential litigation;
- Emails received or sent by members of the General Assembly or their staff;
- Records that could jeopardize the security of a government building or endanger an individual; and
- Communications between members of the General Assembly, between those members and their constituents, and by members of the General Assembly on behalf of their constituents.

## Will Copying Public Records Cost Me Anything?

FOIA permits public bodies to charge photocopying, administrative, and other fees associated with processing a records request and to require payment of a portion of estimated fees before processing a request. The Town of South Bethany FOIA fees are as follows:

- First 20 pages & first hour search for documents: FREE
- Over 20 B&W pages for 8.5"x11," 8.5"x14", and 11x17" sized paper: \$0.10/pg. (\$0.20 for a double-sided sheet)
- B&W pages larger than 11x17": 18" x 22": \$2.00 per sheet; 24" x 36": \$3.00 per sheet; documents larger than 24" x 36": \$1.00 per square foot
- Color copies/printouts: An additional charge of \$1.00 per sheet will be assessed for all color copies or printouts for standard-sized copies (8.5" x 11", 8.5" x 14", and 11" x 17") and \$1.50 per sheet for larger copies
- Staff time to fulfill FOIA requests after first hour (this will be in addition to any duplicating/copying charges): \$20.00/hour

## Can Meetings be Closed to the Public?

FOIA permits public bodies to meet in executive session, out of public view, to discuss sensitive matters, including: job applicant qualifications; collective bargaining or pending litigation; documents that are not public records; disciplinary and dismissal cases; and personnel matters.

## Do I Have the Right to Speak at a Public Meeting?

Not under FOIA. Each public body has its own rules and procedures for public meetings and most allow time for public comment.