

700 PURPOSE AND APPLICATION

- 700.1 This chapter shall apply to all Freedom of Information Act (FOIA) requests for access to or copies of Public Service Commission of the District of Columbia records made pursuant to the Freedom of Information Act of 1976, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531 *et seq.* (2016 Repl.), as amended (FOIA Act).
- 700.2 The policy of the Public Service Commission of the District of Columbia (Commission) is one of full and responsible disclosure of its identifiable records, consistent with the provisions of the FOIA Act. Provisions of this chapter shall be construed with the view toward expansion of public access and the minimization of costs and time delays to persons requesting access.
- 700.3 Commission employees may continue to furnish to the public, informally and without compliance with these procedures, information, and records which they customarily furnish in the regular performance of their duties.
- 700.4 The General Counsel, or his or her designee, shall be designated as the FOIA Officer of the Commission.
- 700.5 Commission FOIA Officers shall attend training sessions as conducted by the FOIA Committee established by Mayor's Order 2001-30 (February 27, 2001).
- 700.6 The Commission shall post the contact information of the FOIA Officer and method for submitting a FOIA request on its website at www.dcpssc.org.

SOURCE: Final Rulemaking published at 33 DCR 7053 (November 14, 1986); as amended by Final Rulemaking published at 68 DCR 013097 (December 10, 2021).

701 REQUEST FOR RECORDS

- 701.1 A request for copies of Commission records or access to Commission records pursuant to the FOIA Act may be made orally or in writing, with the following stipulations:
- (a) The Commission may require an oral request to be reduced to writing and submitted to the Commission Secretary's Office for expeditious review.
 - (b) Written requests that are submitted via mail shall prominently indicate "FOIA Request" on the envelope.
 - (c) Written requests submitted via electronic mail shall indicate "FOIA Request" in the subject line.
 - (d) All requests should include a daytime telephone number, email address, or mailing address, so that the FOIA Officer may contact the requestor for further information if necessary.
- 701.2 All written FOIA requests shall be sent to the Commission Secretary's Office for docketing and processing. After the FOIA request has been docketed, the FOIA Officer will be notified.
- 701.3 A request shall reasonably describe the desired record. Where possible, specific information regarding dates, files, titles, file designation, or other identifying information, shall be supplied.
- 701.4 Where the information supplied by the requesting party is not sufficient to permit the identification and location of the record with reasonable efforts, the person requesting the record shall be contacted and asked to supplement the request with further information. Every reasonable effort shall be made by the Commission's employees to assist in the identification and location of requested records.

SOURCE: Final Rulemaking published at 68 DCR 013097 (December 10, 2021).

702 TIME LIMITATIONS

- 702.1 Within fifteen (15) days (excluding Saturdays, Sundays, and legal public holidays) of the receipt of a request, the FOIA Officer shall determine whether to comply with or to deny the request and shall dispatch their determination to the requesting party, unless an extension is made under § 702.3.
- 702.2 For purposes of this section, a request is deemed “received” when the FOIA Officer receives the request submitted in compliance with § 701. If the requester must be contacted for additional information, as set forth in § 701.4, the request is deemed received when the FOIA Officer receives the additional information.
- 702.3 In unusual circumstances, the Commission may extend the time for determination on a request up to a total of ten (10) days (excluding Saturdays, Sundays, and legal public holidays). For purposes of this section, "unusual circumstances" means, but only to the extent necessary for the proper processing of the request, either of the following:
- (a) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are included in a single request; or
 - (b) The need for consultation with another agency having a substantial interest in the determination of the request, or for coordination among two (2) or more Offices of the Commission having substantial interest in the subject matter of the request.
- 702.4 If no determination has been dispatched at the end of the fifteen (15) day period, or the extension thereof, the requester may deem their request denied, and exercise a right of appeal in accordance with § 706.
- 702.5 When no determination can be dispatched within the applicable time limit, the FOIA Officer shall continue to process the request. On the expiration of the time limit, the FOIA Officer shall inform the person requesting the record of the following:
- (a) The reason for the delay;
 - (b) The date on which a determination may be expected;
 - (c) The right to treat the delay as a denial; and
 - (d) The appeal rights as provided in § 706.

702.6 The FOIA Officer may ask the person requesting the record to forego appeal under § 706 until a determination is made.

SOURCE: Final Rulemaking published at 68 DCR 013097 (December 10, 2021).

703 EXEMPTIONS FROM DISCLOSURE

- 703.1 The classes of records authorized to be exempted from disclosure under this chapter shall be the same as those provided in D.C. Official Code § 2-534 (2016 Repl.).
- 703.2 Any reasonably separable portion of a record shall be provided to any persons requesting the record after redaction or removal of those portions exempt under this section.

SOURCE: Final Rulemaking published at 33 DCR 7053, 7056 (November 14, 1986); as amended by Final Rulemaking published at 68 DCR 013097 (December 10, 2021).

704 RESPONSE TO REQUESTS

- 704.1 When a requested record has been identified and is available, the FOIA Officer shall notify the person requesting the record where and when the record is available for inspection or copies will be available. The notification shall also advise the person of any applicable fees.
- 704.2 A response denying a written request for a record shall be in writing and shall include the following information:
- (a) A reference to the specific exemption(s) authorizing the withholding of the record with a brief explanation of how each exemption applies to the record withheld. Where more than one record has been requested and is being withheld, the foregoing information shall be provided for each record or portion of a record withheld; and
 - (b) A statement of the appeal rights as provided in § 706.
- 704.3 If a requested record cannot be located from the information supplied or is known to have been destroyed or otherwise disposed of, the requester shall be so notified.

SOURCE: Final Rulemaking published at 33 DCR 7053, 7056 (November 14, 1986); as amended by Final Rulemaking published at 34 DCR 2195 (April 3, 1987); as amended by Final Rulemaking published at 68 DCR 013097 (December 10, 2021).

705 FEES

- 705.1 Charges for services rendered in response to FOIA requests shall be as follows:
- (a) Searching for records, four dollars (\$4.00) per quarter-hour, after the first hour, by clerical personnel (DS 1 through 8);
 - (b) Searching for records, seven dollars (\$7.00) per quarter-hour, after the first hour, by professional personnel (DS 9 through 13);
 - (c) Searching for records, ten dollars (\$10.00) per quarter-hour, after the first hour, by supervisory personnel (DS 14 and above);
 - (d) Copies made by photocopying machines, twenty-five cents (\$.25) per page; and
 - (e) Charges for the initial review of documents, as permitted by § 2-532 (2016 Repl.) shall be assessed at the rate provided in subsections (a)-(c) above.
- 705.2 When a response to a request requires services or materials for which no fee has been established, the direct cost of the services or materials to the Commission may be charged, but only if the person making the request has been notified of the cost before it is incurred.
- 705.3 Where an extensive number of documents are identified and collected in response to a request, and the person making the request has not indicated in advance their willingness to pay fees as high as are anticipated for copies of the document, the FOIA Officer shall inform the person that the documents are available for inspection and for copying at the established rate.
- 705.4 A charge of one dollar (\$1.00) shall be made for each certification of true copies of Commission records.
- 705.5 Search costs, not to exceed any dollar limitation prescribed by the FOIA Act for each request, may be imposed even if the requested record cannot be found. Fees will not be charged for Commission review of a record to determine if it is subject to disclosure.
- 705.6 Payment of fees prescribed by these rules shall be paid in accordance with the FOIA Act.

- 705.7 Remittances shall be in the form either of a personal check or bank draft on a bank in the United States, a postal money order, or by any other electronic means as established by the Commission. Remittance shall be made payable to the D.C. Treasurer and mailed or hand-delivered to the Secretary of the Commission, or submitted by any other electronic means as established by the Commission.
- 705.8 A receipt for fees paid shall be given only upon request. No refund shall be made for services rendered.
- 705.9 The FOIA Officer may waive all or part of any fee when it is deemed to be either in the Commission's interest or in the interest of the public. A requester seeking a waiver or reduction of fees shall provide a statement in their request letter explaining how the records will be used to benefit the general public.

SOURCE: Final Rulemaking published at 33 DCR 7053, 7056 (November 14, 1986); as amended by Final Rulemaking published at 68 DCR 013097 (December 10, 2021).

706 APPEALS

706.1 When a request for records has been denied in whole or in part by an agency, the requester may appeal the denial to the Mayor as set forth in 1 DCMR § 412.

706.2 An appeal to the Mayor shall be in writing. The appeal letter shall include “Freedom of Information Act Appeal” or “FOIA Appeal” in the subject line of the letter as well as marked on the outside of the envelope. The appeal shall be mailed to:

The Mayor’s Office of Legal Counsel
FOIA Appeal
1350 Pennsylvania Ave, N.W.
Suite 407
Washington, D.C. 20004

Alternatively, the appeal letter may be submitted through the District of Columbia FOIA Public Access Portal at <https://foia-dc.gov/>.

The requester shall forward a copy of the appeal to the Commission FOIA Officer.

706.3 An appeal to the Mayor shall be in writing and shall include:

- (a) Statement of the circumstances, reasons, or arguments advanced in support of disclosure;
- (b) Copy of the original request;
- (c) Copy of any written denial; and
- (d) Daytime telephone number, and email address or mailing address for the requester.

706.4 Within five (5) days (excluding Saturdays, Sundays, or legal public holidays) of receipt of its copy of the FOIA appeal, the Commission shall file a response with the Mayor’s Office of Legal Counsel. The response shall include the following documents:

- (a) Justification for the Commission’s decision not to grant review of records as requested, to the extent not provided in the agency’s letter of denial to the requester;
- (b) Any additional documentation as may be necessary and appropriate to justify the Commission’s decision, such as a Vaughn

index of documents withheld, an affidavit or declaration of a knowledgeable official or employee testifying to the decision to withhold documents, or such other similar proof as the circumstances may warrant; and

- (c) A copy of the public record or records in dispute on the appeal; provided, that if the public record or records are voluminous, the Commission may provide a representative sample; and provided further, that if the public record contains personal, sensitive, or confidential information, the Commission may redact such information from the copy furnished to the Mayor's Office of Legal Counsel.

706.5 The Commission may request additional time to file documentation required by § 706.4 by filing a written or emailed request to the Mayor's Office of Legal Counsel with a copy to the requester. The request for additional time must be filed within five (5) days (excluding Saturdays, Sundays, and legal public holidays) of receipt of the appeal. Failure to respond within the time provided shall be deemed a waiver of the right to respond to the appeal.

706.6 If the Mayor's Office of Legal Counsel denies the appeal, or it is deemed denied by failure to respond within the time frame required by 1 DCMR § 412, the requester may seek judicial review of the denial in the D.C. Superior Court. Rules on filing a claim for judicial review may be found with the D.C. Superior Court at www.dccourts.gov.

SOURCE: Final Rulemaking published at 68 DCR 013097 (December 10, 2021).

707 MAINTENANCE OF RECORDS

- 707.1 The Secretary of the Commission shall maintain a FOIA Docket of requests for public inspection.
- 707.2 Where the release of the identity of the person requesting the record, or other identifying details related to the request would constitute a clearly unwarranted invasion of personal privacy, the Secretary shall delete identifying details from the copies of the documents maintained in the public files.
- 707.3 On or before December 31st of each year, the FOIA Officer shall compile and submit to the Secretary of the District of Columbia a FOIA report as set forth in D.C. Official Code § 2-538, covering the previous fiscal year.

SOURCE: Final Rulemaking published at 68 DCR 013097 (December 10, 2021).