

Freedom of Information Act & Public Records Act

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Freedom of Information Act (FOIA)

Definition

The Freedom of Information Act was created in 1967 as a way to [“provide the public \[with\] the right to request access to records from any federal agency.”](#) The act was originally passed to enforce the idea that public business is paid for by the people and should, therefore, be largely made freely available to the people: in a democratic government, there is a long-standing ideal that public business should be open and transparent. There are nine exemptions to this rule, however.

Exemptions

1. Information that is classified because of national defense or foreign policy
2. Information about an agency’s internal personnel rules
3. Information that is exempt from disclosure because of another statute
4. Trade secrets obtained outside the government
5. Information that would be exempt in civil discovery, such as under attorney client privilege
6. Medical files or other information that would be an invasion of privacy
7. Some information gathered for law enforcement purposes
8. Information about the regulation or supervision of financial institutions
9. Geological and geophysical information about wells

How to Complete a Request

According to the [FOIA website](#), anyone is able to submit a FOIA request, whether they are a citizen or not, by submitting a request through the specific agency’s FOIA office. The request can specify what format the records should be in, however agencies are not required to [“create new records or to conduct research, analyze data, or answer questions”](#) to fulfill the request. Usually, after submitting a request you will receive a letter that contains a tracking number for the request. The only ways to expedite a request is if someone’s life or physical safety is in danger, or in some cases if someone is trying to inform the public about federal government activity, whether actual or alleged.

There may be charges associated with the request; you can state in your request the maximum amount you are willing to pay. Agencies will also notify you if they think the fees will exceed \$25. Typically, fees may still accrue even if your request for records is denied. There are some circumstances where fees can get waived, but it usually won’t apply if you are requesting records on yourself or if you are simply unable to afford them. Instead, fees may be waived if you are able to show that the records are being requested in the interest of the public to advance the public understanding of the government, and not just in your own commercial

interest. If you are not satisfied with the agency's response to your request, you can file an administrative appeal at no cost. For an official search bar of government information that is already available, click [here](#).

Notable FOIA requests

In 2014, the [Associated Press](#) discovered through [FOIA requests](#) that former Nazis who had been forced out of the United States were receiving Social Security benefits through a loophole. Two months after this was reported, the [No Social Security for Nazis Act](#) was signed into law by President Obama, closing the loophole and stopping the payments.

In 2018, FOIA requests for Environmental Protection Agency (EPA) records filed on behalf of the Sierra Club and news agencies uncovered misconduct that ultimately led to Secretary Scott Pruitt's resignation. The misconduct included expensive trips overseas, spending \$1560 on 12 fountain pens, and using his position to attempt to obtain a fast food restaurant franchise for his wife. For a detailed account of how the Sierra Club's FOIA team won their fight against Pruitt, see this article from [Slate.com](#).

Ohio Public Records Act (PRA)

Definition

The Ohio Public Records Act is similar to FOIA, however it applies to the State of Ohio. The PRA and the Open Meetings Act are also known as the "Sunshine Laws." For a complete guide to the PRA, see the Attorney General's [Yellowbook](#). Anyone may make a request, including people who are not citizens or Ohio residents. You can request for the records to be in a specific format, however there may be a cost for copies and public offices are not required to create new records to fulfill the request.

Exemptions

There are two categories of exemptions: "must not release" and "may release, but may choose to withhold." There are many specific exemptions, including medical records, adoption proceedings, inmate records, personal information, and restricted portions of dashboard and body cameras.

How to Complete a Request

The Ohio State Bar Association has a helpful [guide](#) to submitting public records requests and a free letter template that can be sent to the office you are requesting records from.

Related Concepts

Ohio Open Meetings Act: The Ohio Open Meetings Act requires that public bodies give notice of their meetings, make them open to the public, and keep and maintain minutes. However, no government officials have the authority to enforce this— if you believe it has been violated, you must file a lawsuit in a common pleas court.

Sunshine Laws Training: The Ohio Attorney General's Office offers free training for public officials and anyone else interested in learning about the Sunshine Laws. The trainings are three hours long, and can be done [online](#) or [in person](#).

Notable PRA requests

In 2020, Morrow County Commissioners discovered that the [Open Meetings Act had been violated by the board overseeing the Morrow County Hospital](#). In these private meetings where no records were taken, the board renewed the hospital's contract with OhioHealth, leaving the commissioners unable to propose other contracts with different companies that could have been a better option for the county financially. These contracts were especially important because taxpayers fund about 20% of the hospital's payroll each year.

In 2021, a [Cleveland news station](#) utilized PRA requests and found that at the beginning of the Covid-19 pandemic, there were no plans on how to combat the spread of the virus inside of jails.

Summary

The Freedom of Information Act and the Ohio Public Records Act are essential to upholding our democracy. This access to information allows for an extra level of accountability for the government. According to the [US Justice department](#), the Supreme Court has noted the necessity of FOIA for our democracy, writing: "the basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed. FOIA is often explained as a means for citizens to know 'what their Government is up to'. This phrase should not be dismissed as a convenient formalism – it defines a structural necessity in a real democracy." While one logical argument is that all information and work paid for by "the people" should be made available to "the people"; it is equally rational to acknowledge that governments engage in action on behalf of "the people" - all members of society - and therefore each of us has the right to know what those actions are (or are not) so that we as a society can challenge the integrity, equity, and legitimacy of those actions when necessary.

Along with the importance of knowing your rights to access government information, it is also important for government employees and public bodies to know what is included under FOIA and the PRA for their own privacy and protection. For public bodies especially, being informed of the regulations imposed by the Ohio Open Meetings Act is important to prevent unintentionally breaking the law and being subjected to a lawsuit. For individuals, it is important to know if your emails and communications can be subject to FOIA or PRA requests.

