


# ADMINISTRATIVE PROCEDURE

## ADMIN-3

### Freedom of Information Act Request Procedures

Number: ADMIN-3	Name: Freedom of Information Act Request Procedures.
Purpose: This administrative procedure establishes requirements for University employees receiving requests under the West Virginia Freedom of Information Act (FOIA). These procedures apply to all units, colleges, departments, etc., considered part of the Marshall University state agency	
Responsible Unit: Office of General Counsel and External Affairs	
Approved by: 	Approval Date: 7-7-2023

#### 1. SUBMITTING A W. VA. FOIA REQUEST.

1.1. For efficient and timely processing, requests shall be submitted directly to the following: Mail:

FOIA Request  
Marshall University  
Old Main 216  
One John Marshall Drive  
Huntington, WV 25755

Fax: 304.696.6453

Email: [foia@marshall.edu](mailto:foia@marshall.edu)

- 1.2. Requests must be submitted in writing via mail, facsimile, or email. All requests must include the name and mailing address of the requestor.
- 1.3. All requests shall state with specificity the information being requested such that an unreasonable effort is not required to locate, review, and process the responsive documents; in other words, requests that seek a range of documents should, at a minimum, include specific parameters such as a start date, an end date, and a subject matter.
- 1.4. Requests shall not consist of questions to be answered; rather, requests must seek existing records or documents maintained by the University.
- 1.5. When possible, requests should identify the unit, college, division, or employee that the requestor has reason to believe maintains the responsive documents.

#### 2. PROCESSING A W. VA. FOIA REQUEST.

- 2.1. Receiving a W. Va. FOIA request. All University employees who receive W. Va. FOIA requests must, immediately upon receipt of the request, forward the request to the General Counsel's Office.

- 2.2. Identifying and Locating Potentially Responsive Public Records. Following the receipt of a valid W. Va. FOIA request and upon request of the General Counsel or designee, University employees shall identify and locate potentially responsive Public Records. Such potentially responsive Public Records must be provided to the General Counsel's Office in accordance with any instructions given.
- 2.3. Responding to a W. Va. FOIA request. Within a maximum of five (5) business days of receipt, not including the day the request is received, a professional staff member from the General Counsel's Office or their designee (sometimes referred to as a "FOIA Officer") shall, on behalf of the University, coordinate the following action:
- (a) Furnish copies of the requested Public Records;
  - (b) Advise the requestor of the time and place at which they may inspect and request copies of the Public Records during business hours;
  - (c) Deny the request, in whole or in part, stating in writing the reasons for such denial;
  - (d) Request a clarification of the W. Va. FOIA request and set a time frame for when such clarification is to be provided; or
  - (e) For requests seeking documents that might reasonably be provided but not within the initial five (5) day response time frame or for requests seeking documents that require additional time to process, inform the requestor that an extension of time is necessary to fulfill the W. Va. FOIA request.
  - (f) Provide timely updates, as appropriate, regarding W. Va. FOIA request(s) which are still pending review or are in the process of review.
- 23.1. For the purposes of this procedure, the five (5) business day response period shall begin on the first business day after the request is received if receipt is during regular business hours. Regular business hours shall be defined as Monday through Friday, 8:15 am to 4:45 pm. For the avoidance of doubt, Saturdays, Sundays, legal or Marshall University holidays, and any day upon which the University closes, in part or in whole (e.g., an early closure as a result of inclement weather), are not considered a "business day" for purposes of this procedure.
- 23.2. Under normal circumstances, responsive Public Records shall be provided in paper format. If the person or entity making the request seeks responsive Public Records in magnetic, electronic or computer format and the requested Public Records exist, at the time of the request, in the requested format, the requested Public Records shall be provided in the requested format to the extent reasonable.
- 2.3.2.1 Public Record that exist in magnetic, electronic or computer format may not be provided in such a format when the removal or redaction of exempt information cannot be performed electronically.
  - 2.3.2.2 Nothing herein shall require the University to convert any Public Record into an electronic format, if it does not exist in that format at the time of the request.
233. Under normal circumstances, responsive Public Records shall be provided to the person or entity making the request following the (i) removal or redaction of information that is not responsive to the

request or (ii) the removal or redaction of information exempt from disclosure by the provisions of the W. Va. FOIA or other applicable law, rule or privilege.

- 2.4. Ending a W. Va. FOIA request. Pursuant to the W. Va. FOIA, all responses that have been concluded will clearly state that the request is at an end. In addition, for requests requiring clarification, requests will be considered withdrawn and at an end if no response is received back by the specified deadline or within sixty (60) calendar days for responses with no set deadline.
- 2.5. Submission to the West Virginia Secretary of State. The University will comply with applicable rules and related procedures established by the West Virginia Secretary of State requiring the submission of information related to W. Va. FOIA requests received and processed to an end by the University.

### **3. FEES.**

- 3.1. Typically, all fees which are due shall be paid to the University prior to the release of any Public Records. In the event that responsive documents are provided to a requestor in advance of payment, no future requests shall be processed until such payments are received.
- 3.2. Unless otherwise provided for by the General Counsel or designee, in their discretion, a reproduction fee of (\$0.50) cents per page of 8½ x 11 paper provided in response to a W. Va. FOIA request shall be charged to the requestor.
- 3.3. In the event that the Responsive Documents are furnished to the requestor on electronic media (e.g., a flash drive), the requestor shall pay all costs of the media. It shall be in the discretion of the FOIA Officer as to whether or not the Responsive Documents may be uploaded to a site provided by Requestor.
- 3.4. In the event that it becomes necessary for the University to engage an outside third-party to provide the Responsive Documents, the requestor shall pay all associated costs.
- 3.5. Some requests may require an estimation of the final fee to be calculated and charged. If the estimated fee exceeds ten dollars (\$10.00), the requestor shall pay a deposit, up to and including the amount of the original estimate, before proceeding with the request.
- 3.6. Reasonable postage fees may be charged when responsive documents or other electronic media are mailed or shipped to requestors.
- 3.7. In the event that a fee or a requested deposit is not paid or there has been no other communication indicating payment is to be made within fifteen (15) calendar days of the request, the request will be considered withdrawn and at an end. Moreover, the processing of a pending request shall be paused until such deposit is received.

### **4. DISCRETION AND EFFICIENT ADMINISTRATION.**

- 4.1 To the extent not already expressly stated in this Procedure, the General Counsel or designee shall have sufficient latitude and authority to implement any reasonable measures necessary for the fair and efficient administration of this procedure. Minor deviations from this procedure are acceptable as long as those deviations are not materially harmful to the purpose of the procedure.

## **5. RELEASE OF STUDENT DIRECTORY INFORMATION/FERPA**

5.1 The West Virginia Freedom of Information Act gives citizens the right to information about the affairs of government. It does not give a right to access student educational records. Student records are protected by the Family Educational Rights and Privacy Act (FERPA) and other privacy laws. FOIA does not grant anyone the right to view an individual student's educational record.

5.2 Provided that, Marshall University Board of Governors Policy No. SA-5, Directory Information (MUBOG SA-5) designates the following categories of student information as "Directory Information": Student's official name; Student's hometown (City, County, State, Country); parents' names; major and minor fields of study; dates of attendance; degree(s) and date(s) conferred, including anticipated graduation dates; previous educational institution attended; photographs, videos or other media containing a student's image or likeness (collectively "Student Images"); honors and awards received; classification or class status; participation in officially recognized activities and sports; weight and height of members of athletic teams; and duties and responsibilities, including dates of service of graduate assistants, student workers, interns or student volunteers. When responding to FOIA requests for directory information, if the information is not otherwise protected, the FOIA Officer may release University defined "Directory Information". Please see (MUBOG SA-5).

## **6. AUTHORITY.**

6.1 West Virginia Freedom of Information Act W.Va. Code § 29B-1-1, *et. seq.*

## **7. SUPERSEDING PROVISIONS.**

7.1 This administrative procedure amends the previous version approved July 1, 2020.