

**Section 10-3.4. Time for responding to FOIA requests; allowed responses to FOIA requests; limit on withholding public records; cost determination; when records have been transferred; responsible for assembling etc. —** A. Suffolk Public Schools must respond to a request within five working days of receiving it. “Day One” is considered the day after the request is received. The 5-day period does not include weekends or holidays. The reason behind a request for public records from Suffolk Public Schools is irrelevant and a requestor does not have to state why they want the records before Suffolk Public Schools responds to the request. FOIA does, however, allow Suffolk Public Schools to require a requestor to provide their name and legal address.

B. ~~The superintendent or the superintendent’s designee~~ FOIA Officer, after receiving a request, promptly makes an initial determination as to whether the requested records will be provided to the requester, will be withheld, either completely or in part, or if it is practically impossible to provide the requested records or to determine whether they are available within five days. ~~The superintendent or the superintendent’s designee~~ the FOIA Officer can provide one of the following responses to a request within the five-day time period:

- (a) The requested records are being entirely withheld. The response will identify with reasonable particularity the volume and subject matter of the withheld records, and, with respect to each category of withheld records, cite the specific Virginia Code section(s) or other law that authorizes the withholding of the records.
- (b) The requested records are being provided in part and are being withheld in part. The response will identify with reasonable particularity the subject matter of the withheld portions and cite, with respect to each category of withheld records, the specific Virginia Code section(s) or other law which authorizes the withholding of the records.
- (c) The requested records could not be found or do not exist. If the school division knows that another public body has the requested records, the response includes contact information for the other public body.
- (d) It is not practically possible to provide the records or to determine whether they are available within the five-day period. Such response specifies the conditions which make a response impossible. If the response is made within five working days, one of the preceding responses is provided within an additional seven-day period.

C. No public record is withheld in its entirety under subsection (B)(a) on the grounds that some portion of the public record is excluded from disclosure by law. A public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion may be withheld, and all portions of the public record that are not so excluded are disclosed.

If the ~~superintendent or superintendent's designee~~ FOIA Officer is unsure whether the requested documents should be provided to the requester, legal advice is promptly sought. If the ~~superintendent or superintendent designee~~ FOIA Officer is uncertain whether the requested records exist or where they may be located, efforts are promptly initiated to locate the records or determine whether they exist. If the requested records will be made available either in whole or in part, the ~~superintendent or the superintendent's designee~~ FOIA Officer promptly consults with central office staff to determine the cost involved to assemble the records for inspection and copying. Where portions of individual records must be redacted prior to inspection and copying, the cost of doing this is taken into account.

D. Costs charged the requester will be based on the employee who performs the search hourly rate of pay, not including fringe benefits, along with any incidental out-of-pocket costs necessary to assemble the records (for example: phone, postage, or courier charges). All costs for search time, including computer searches, computer printouts, and photocopying are set forth in the schedule of fees adopted by Suffolk Public Schools.

If the requester has asked for an advance determination of the cost, or if the cost is expected to exceed \$200, the requester shall be notified in advance of the cost associated with the request. If the cost of the request is determined to exceed \$200, Suffolk Public Schools may, before continuing to process the request, require the requester to agree to payment of a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. No further action shall be taken until the requester responds, and the requester must agree to pay the estimated amount before any further processing of the request is performed.

Before processing a request for records, the ~~superintendent or superintendent's designee~~ FOIA Officer may require the requester to pay any amounts owed to Suffolk Public Schools for previous requests for records that remain unpaid 30 days or more after billing.

E. If records of Suffolk Public Schools have been transferred to any entity, including any other public body, for storage, maintenance or archiving, the school division remains the custodian of the records for purposes of responding to requests and is responsible for retrieving and supplying the records to the requester.

D. Any records to be disclosed are assembled for inspection and copying by central office staff, under the direction and supervision of the ~~superintendent or a designee~~ FOIA Officer. ~~Central office~~ Staff of Suffolk Public Schools are responsible for recording the date the request was received, verifying photo identification and signature and recording and assembling additional information about the request as indicated on Request for Public Records Form. (Adopted June 9, 2016; Ordinance Number 15/16-114; Effective Date: July 1, 2016)

**Legal Authority** – Virginia Code § 2.2-3704 (1950), as amended.