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ResearchReport

OLR Backgrounder: Freedom of Information Act Records Requests

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Issue

Provide an overview of Connecticut's Freedom of Information Act (FOIA) requirements for public records requests, including the Freedom of Information Commission's (FOIC) role.

Summary

Connecticut's FOIA was enacted in 1975 (PA 75-342, codified as CGS § 1-200 et seq.). It requires state and local agencies to, with exceptions, disclose records to anyone who asks. Legislative history describes a desire to conduct government business openly and increase transparency and trust in government decision-making. FOIA identifies the information held by public agencies that must be made available for public inspection and copying, unless federal or state law prohibits it. Some of these prohibitions are in the FOIA itself but others are scattered throughout the statutes. Although access to records is mandated, public agencies can charge a fee for access to them.

People who file requests and are denied access to records by a public agency may file a complaint with the FOIC. The FOIC can rectify denials of rights under FOIA and impose civil penalties under certain circumstances. A party can appeal a FOIC ruling to court.

Who Does FOIA Apply to?

FOIA generally applies to all state and local governmental agencies, departments, institutions, bureaus, boards, and commissions. Specifically, it applies to:

1. state and local government agencies, departments, institutions, boards, commissions and authorities and their committees;
2. executive, administrative, and legislative offices;
3. the judicial branch, including the Division of Public Defender Services, and the Division of Criminal Justice with respect to their administrative functions; and
4. certain other entities that are considered the functional equivalent of a public agency (CGS § 1-200(1)).

Functional Equivalent

Under FOIA, a public agency includes any person to the extent the person is deemed to be the functional equivalent of a public agency. To determine whether a person is the functional equivalent of a public agency, courts and FOIC apply a four-part test established by the Connecticut Supreme Court in *Board of Trustees of Woodstock Academy* v. *FOI Commission*, 181 Conn. 544 (1980). The test consists of the following factors:

1. whether the entity performs a governmental function,
2. the level of government funding,
3. the extent of government involvement or regulation, and
4. whether the entity was created by government.

The Supreme Court stated that these criteria should be applied on a case-by-case basis. In a later case, the court held that an entity need not meet all four of the criteria to be considered a public agency. Rather, "[a]ll relevant factors are to be considered cumulatively, with no single factor being essential or conclusive" (*Connecticut Humane Society* v. *FOI Commission*, 218 Conn. 757, 761 (1991)).

Records Exemptions

FOIA requires the above-mentioned public agencies, with exceptions, to make their records and files available to the public for inspection and copying. There are no required forms to make a FOIA request. However, an agency may ask a person requesting copies of public records to complete a form prepared by the agency.

CGS § 1-210(b) allows a public agency to withhold the following types of records from disclosure under FOIA:

1. preliminary drafts or notes if the public interest in withholding them clearly outweighs the public interest in disclosure;

2. personnel or medical files and similar files if disclosure would constitute an invasion of personal privacy;

3. law enforcement agency records not otherwise publicly available that were compiled in connection with the detection or investigation of a crime, if disclosure would not be in the public interest because it would disclose certain information;

4. records on strategy and negotiations over a pending claim or pending litigation to which the public agency is a party until it has been finally adjudicated or otherwise settled;

5. trade secrets and commercial or financial information given in confidence, not required by statute;

6. test questions, scoring keys, and other examination data used to administer a licensing, employment, or academic examination;

7. the contents of real estate appraisals, engineering, or feasibility estimates, and evaluations made for or by an agency to acquire property or prospective public supply and construction contracts, until the property has been acquired or all proceedings or transactions have been terminated or abandoned;

8. statements of personal worth or personal financial data required by a licensing agency and filed by an applicant for a license, certificate, or permit;

9. collective bargaining records, reports, and statements of strategy or negotiations;

10. records, tax returns, reports, and statements exempted by federal law or the general statutes, or certain communications privileged by certain relationships (such as the attorney-client, marital, or doctor-patient privilege);

11. names or addresses of students enrolled in any public school or college without consent from their parent or guardian (if under age 18) or the student (if at least age 18);

12. illegally obtained information;

13. records of an investigation under the state whistleblower or false claims laws, including any complaint or the name of a person providing information;

14. certain adoption records and related information;

15. any page of a primary petition, nominating petition, referendum petition, or petition for a town meeting, until its required processing and certification has been completed;

16. records of complaints, including information compiled in investigating them, brought to a municipal health authority or a district health department, until the investigation is concluded or 30 days after the complaint's receipt, whichever occurs first;

17. educational records that are not subject to disclosure under the federal Family Educational Rights and Privacy Act;

18. records, the disclosure of which the Department of Correction (DOC) commissioner, or as it applies to Whiting Forensic Hospital, the Department of Mental Health and Addiction Services (DMHAS) commissioner, has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution, DOC-supervised facility, or Whiting Forensic Hospital;

19. records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility, or any fixture and equipment in them;

20. records of standards, procedures, processes, software, and codes not otherwise available to the public, if their disclosure would compromise an information technology system's security or integrity;

21. the residential, work, or school address of any participant in the address confidentiality program (this program is for victims of family violence, sexual assault, trafficking in persons, or certain other crimes);

22. e-mail addresses obtained by the Department of Transportation to implement or administer a plan to inform individuals about significant highway or railway incidents;

23. the name or address of any minor enrolled in a parks and recreation program administered or sponsored by a public agency;

24. responses to any request for proposals (RFP) or bid solicitation issued by a public agency, responses by a public agency to any RFP or bid solicitation issued by a private entity, or any record or file made by a public agency in connection with the contract award process, until the contract is executed or negotiations for its award have ended, whichever occurs earlier, if the agency's chief executive officer certifies that the public interest in their disclosure is outweighed by the public interest in their confidentiality;

25. the name, address, telephone number, or e-mail address of any person enrolled in a senior center program or any member of a senior center administered or sponsored by a public agency;

26. all records obtained during an inspection, investigation, examination, and audit activities of certain types of institutions (such as hospitals, hospice inpatient facilities, residential care homes, and nursing home facilities), that are confidential under a contract between the Department of Public Health and the federal Department of Health and Human Services relating to the Medicare and Medicaid programs;

27. any record created by a law enforcement agency or other federal, state, or municipal governmental agency consisting of a photograph, film, video, or digital or other visual image depicting a (a) homicide victim, domestic or sexual abuse victim, or deceased accident victim, to the extent that it could reasonably be expected to constitute an unwarranted

invasion of the personal privacy of the victim or the victim's surviving family members or (b) minor (except as related to police body camera footage under certain conditions); or

28. any records maintained or kept on file by an executive branch agency or public higher education institution relating to claims of, or testing for, faulty or failing concrete foundations in residential buildings, and documents or materials prepared by the agency or institution relating to the records.

Additional exemptions for specific records are scattered throughout the statutes. For example, PA 26-1, § 94 added a new exemption for ballots, including write-in ballots, cast at an election, primary, or referendum to the list of records exempt from FOIA disclosure.

Residential Address Exemptions

FOIA prohibits a public agency from disclosing the residential address from personnel, medical, or similar files for the following public officials and employees:

1. federal judges and magistrates, Connecticut judges and family support magistrates, judicial branch employees, prosecutors, public defenders, public defender social workers, and Division of Criminal Justice inspectors;

2. firefighters, state marshals, and police officers;

3. DMHAS employees who provide direct patient care, and DOC and Department of Children and Families employees; and

4. members and employees of the Board of Pardons and Paroles and the Commission on Human Rights and Opportunities.

The law also allows anyone in the above positions to request residential address confidentiality from other public agencies (and from their own agencies for records besides personnel, medical, or similar files). Agencies that receive these requests and the requestor's business address must (1) redact the person's home address from records provided in response to a request that specifically names the person and (2) make reasonable efforts to redact the person's home address before releasing an existing list from a readily accessible electronic database or any list that the agency voluntarily creates in response to a request for disclosure. The law also allows municipal clerks, registrars of voters, deputy registrars of voters, and election, audit, or primary officials to request residential address confidentiality within a certain time period surrounding an election.

The disclosure prohibition also does not apply to home addresses contained in (1) certain motor vehicle records, which are disclosable to government agencies and anyone else who agrees to use them for limited specified purposes; (2) documents eligible to be recorded in municipal land

records; (3) lists required by the state's election laws (such as voter registry lists, petition forms, and logs of absentee ballot applications); or (4) municipal grand lists (CGS § 1-217).

Request Costs

Municipal and other non-state agencies may charge a maximum of $0.50 per page and state agencies may charge a maximum of $0.25 per page. If a copy requires a transcription, the transcription fee cannot exceed the agency's cost for the transcription. For certified copies, the agency may charge $1.00 for the first page and $0.50 for each additional page. The law also allows a public agency to charge up to a $20 fee each time someone copies records at the agency with a hand-held scanner (CGS § 1-212).

FOIA limits what public agencies may include in charges for providing digital records. Specifically, an agency may only charge:

1. the prorated hourly salary of employees involved in providing the record, including the formatting or programming time, but not search time if the search is done within the agency;
2. the agency's cost for hiring an outside copying service to provide the requested records, if necessary;
3. the actual cost of storage devices or media for the requestor; and
4. any computer charges incurred when another agency or contractor handles the agency's storage and retrieval services.

Under FOIA, public agencies must waive the copying fees if the:

1. requestor is an indigent individual,
2. agency determines that the records are exempt from disclosure under FOIA,
3. agency determines that compliance with the request benefits the general welfare,
4. requestor is an elected official of a political subdivision of the state who (a) obtains the record from the political subdivision's agency in which he or she serves and (b) certifies that it pertains to his or her duties, or
5. requestor is a public defender and certifies that the record pertains to his or her duties.

FOIA Deadlines

Four-Business Day Rule

Generally under FOIA, any denial of a request to inspect or copy public records must be made in writing within four business days after the request is made. (The standard is 10 business days for certain personnel, medical, or similar files.) Failing to comply with a request within the applicable timeframe is deemed a denial (CGS § 1-206).

In practice, however, FOIC generally advises public agencies that this statute does not require agencies to produce documents to fulfill a request within four business days. Rather, it allows the requestor to file an appeal if the agency does not, at a minimum, acknowledge the request within the specified timeframe. The timeliness of an agency's fulfillment of the request (such as permitting inspection or producing copies) is instead determined by whether it is "prompt" (see below).

"Promptly" Standard

FOIA allows any person to (1) inspect records promptly during regular business or office hours and (2) receive a copy of a record promptly upon a written request. Determining whether an agency's response is "prompt" requires a fact-specific analysis. In Advisory Opinion #51 (issued in 1982), FOIC noted that while it cannot definitively set out all the factors that must be considered, potential factors include the volume of records requested and the time by which the requestor needs them, the amount of personnel time an agency must devote to the response, and the time constraints under which the agency must complete its other work.

FOIC Duties

FOIC was created by the General Assembly in 1975 with the passage of FOIA. FOIC consists of nine members. The governor appoints, with consent of either chamber of the General Assembly, five members who serve four-year, staggered terms. The Senate president pro tempore, House speaker, Senate minority leader, and House minority leader each appoint one member who serves a two-year term. (Legislative appointees are not subject to confirmation.) No more than five members may be from the same political party (CGS § 1-205).

The FOIC staff consists of (1) an executive director and general counsel, (2) a managing director and associate general counsel, and (3) other staff as the executive director deems necessary. The commission reviews FOIA complaints and ensures that the public has access to government records and notice of public meetings. It may investigate allegations and, among other things, hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, and

subpoena witnesses. FOIC must conduct annual training sessions to educate state employees about FOIA.

FOIC Complaint Process

A person who is denied a right conferred by FOIA may file a complaint (also called an appeal) with FOIC. Generally, an appeal must be filed with the commission within 30 days of the alleged violation. There is no specific form to complete. A letter containing a statement of all relevant facts and general information is sufficient to institute an appeal (see FOIC website).

FOIC must hear a complaint within 30 days of receipt of the notice of appeal and must provide a decision within 60 days of the hearing. FOIC may order relief to rectify the denial of a right under FOIA. It may impose a civil penalty of $20 to $5,000 against the custodian or other official who denied a right created by FOIA without reasonable grounds and had the opportunity to be heard at a hearing. Additionally, if the commission finds that a public agency is engaging in (1) a practice or pattern of conduct that constitutes an obstruction of any right conferred by FOIA or (2) reckless, willful, or wanton misconduct in delaying or denying responses to public records requests, then it may:

1. impose a civil penalty of $20 to $5,000 against a custodian or other official of the public agency and
2. order other relief that it determines is appropriate to correct the obstruction or misconduct and deter the agency from violating FOIA.

If the commission finds that person filed a complaint frivolously, without reasonable grounds, and to harass the agency, the commission can impose a civil penalty of $20 to $1,000 against the person (CGS § 1-206).

A party may appeal FOIC's final decision to the Superior Court.

Vexatious Requests

Agencies may petition FOIC for relief from vexatious requesters. Upon receiving a petition, FOIC's executive director must review it and determine whether it warrants a hearing. If the executive director determines that a hearing is not warranted, she must recommend that the commission deny the petition. At its next regular meeting, the commission must vote on the recommendation and after the meeting, it must issue a written explanation of the reasons for accepting or rejecting the recommendation. If the executive director determines that a hearing is warranted, the law

requires the commission to serve all parties with a copy of the petition and any other FOIC notice or order.

The commission must hear and either grant or deny the petition within one year after its filing. By law, FOIC may provide appropriate relief commensurate with a vexatious requestor's conduct, including an order that an agency does not need to comply with the person's requests for up to one year (CGS § 1-206).

Defining Vexatious Requester. The law does not define the term "vexatious requester." Instead, it outlines alleged conduct that must be included in the agency petition and considered during FOIC's review process. The Appellate Court upheld a Superior Court's decision of FOIC's adoption of the ordinary meaning of vexatious as causing vexation, distressing, and intended to harass (*Olson* v. *Freedom of Information Commission*, Appellate Court, AC 48010, April 21, 2026).

For a petition, agencies must show conduct that demonstrates a vexatious history of requests, and the petition must be sworn under penalty of false statement and detail the alleged conduct that includes:

1. the number of requests filed and pending;
2. the scope of the requests;
3. the nature, content, language, or subject matter of requests or other oral and written communications to the agency from the requester; and
4. a pattern of conduct that amounts to an abuse of the right to access information under FOIA or an interference with the agency's operation (CGS § 1-206).

Federal FOIA

At the federal level, the Freedom of Information Act (5 U.S.C. § 552) is a distinct law that provides the public the right to request access to records from any federal executive branch agency, with exceptions. The federal FOIA does not apply to the federal judiciary, Congress, or state or local governments. Each federal agency has its own procedure for processing federal FOIA requests.

Most of the exemptions are in the federal FOIA itself but others are scattered throughout the statutes. There are nine general categories of documents exempt from federal FOIA disclosure:

1. classified documents;
2. documents related solely to an agency's internal personnel rules and practices;

3. documents specifically exempted from disclosure by another statute;

4. trade secrets and privileged commercial or financial information;

5. inter-agency or intra-agency memos or letters that would not be available by law to a party other than an agency in litigation with the agency, with exceptions;

6. personnel, medical, and similar files the disclosure of which would be a clearly unwarranted invasion of personal privacy;

7. records compiled for law enforcement purposes, with exceptions;

8. reports made for federal regulatory purposes by financial institutions; and

9. geological and geophysical information related to wells.

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