

Sunshine Week



USING THE FREEDOM OF INFORMATION ACT

GOVERNMENT ACCESS: WHERE TO FIND AGENCY ADDRESSES

LOCAL MUNICIPALITIES

The telephone numbers and street addresses of municipal governments are listed in the telephone book's Blue Pages. In addition, many municipalities have Web sites that can be found with an Internet search engine. The Blue Pages also list the telephone numbers and addresses of many county government departments. Albany County has an Internet home page at www.albanycounty.com; Schenectady's is at www.schenectadycounty.com; Rensselaer's is at www.rensco.com and Saratoga's is at www.co.saratoga.ny.us/

NEW YORK STATE

The telephone numbers of all state government offices are available through a toll-free call to (877) 4NY-INFO. Most state government offices in Albany can also be reached by calling 474-2121. In addition, the telephone numbers and street addresses of local offices of state government are listed in the telephone book's Blue Pages. New York state's Internet home page is at: www.state.ny.us.

Full text of New York's Freedom of Information Law is available at www.dos.state.ny.us/coog/foil2.htm

HOW YOU CAN OBTAIN RECORDS FROM A GOVERNMENT AGENCY IN NEW YORK STATE

1 Identify the agency you think maintains the records you want. You may have to do a little research, but in the long run you will save time by sending your request directly to the proper agency.

Lists and descriptions of state and local government agencies are available in telephone directories, at public libraries and on government Web sites.



2 Check the agency's Web site. Before submitting a request under the Freedom of Information Law, or FOIL, make sure the records you seek are not already in the public domain. If the data you want is already available through a Web archive or other source, the agency probably will not process your request, but may instead refer you to the public source.

3 For assistance, call or visit the agency. If you are unsure how to direct your request to the appropriate unit within an organization, contact the agency's records access officer — the person responsible for coordinating public requests for records — for more information. Although many agencies require that requests be put in writing, you may get the records you want as a result of the phone call or a visit.

TIP Before making a written request, ask how the agency keeps records. Are they filed by street address, in alphabetical order or in some other way? This may affect whether you get what you want.

4 Write the letter. Describe the records as clearly and specifically as possible. Indicate the subject matter, places, names and dates, if known. The more precise and accurate your request, the more likely you are to get a prompt and complete response.



To view a sample request letter, go to: www.dos.state.ny.us/coog/Right_to_know.html.

5 Send the letter to the agency's records access officer. Upon receipt of your request, the records access officer has five business days to respond. The agency may either make the entire record available to you (you will likely be charged 25 cents per page for photocopying), deny your request in whole or in part, or acknowledge receipt of your request with an estimate of the date when your request will be filled.



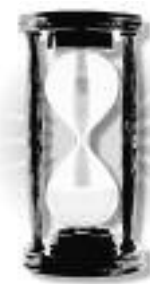
TIP For quickest handling, mark both your letter and the envelope "Freedom of Information Act Request."

New York's Freedom of Information Law — which provides access to public records reflective of government policies — affirms your right to know how your government operates and holds policymakers accountable.



ILLUSTRATIONS BY CHRIS BROWN AND AARON PORTER; GRAPHICS REPORTING BY LYNETTE JOHNSON AND BRUCE GOLDING/THE (WESTCHESTER) JOURNAL NEWS

6 Wait for a response to your request. If the agency does not respond to your request within five business days of receiving it or within the time estimated in an acknowledgement letter, your request may be considered to be denied. Your request may also be denied outright by the agency in writing. You can appeal a denial. (If you've had no response, you might want to call the agency to make sure the records access officer received your request in the first place.)



7 Write an appeal. Ask the agency's appeals officer to review your request and its denial decision (or lack of response). Your appeal letter should contain the dates of the request and denial, reference to the record that was denied, the name of the record access officer who denied the request, and your name and return address. You can also state why you believe the denial was wrong.

TIP You have the right to file an appeal within 30 days of the receipt of a denial letter. Be sure not to miss the 30-day deadline.

To view a sample appeal letter, go to: www.dos.state.ny.us/coog/Right_to_know.html

8 Wait for a response to your appeal.

Upon receipt of your appeal, the agency has 10 business days to explain in writing the reasons for further denial of access or to provide access to the records.



9 Consult with a lawyer who is familiar with laws governing access to public records. Ask for advice on filing a FOIL lawsuit if your appeal is denied or if you have received no response to your appeal.



TIP Be sure not to miss the four-month deadline for filing your papers in court.

10 Take the matter to court. In court, the agency will have to prove that any withheld information is covered by one of the exemptions listed in the law. If you win your case and the lawsuit is found to be a matter of significant public interest, the court may require the government to pay court costs and reasonable attorney's fees for you.



FAQ

From what branches of government can I request information under the Freedom of Information Law?

The law is designed to ensure that the public has access to the information it needs to hold public officials accountable. Any governmental entity performing a governmental function is subject to the law. This includes New York state or municipal departments, boards, bureaus, committees, public authorities, public corporations, councils, offices and commissions.

Are all government records available?

Records are available unless an exception permits an agency to deny access. Most exceptions are based on the harm that would arise upon disclosure. If disclosure of records would be damaging to an individual or business, or would keep a government agency from carrying out its duties, it is likely that some aspects of the records may be exempt from disclosure.

Can I see the documents before I decide if I want copies?

When you send in a request, you can specify that you want to inspect the documents. Usually, an appointment can be arranged for you to go view the materials at the agency's offices. You may be charged for any copies of documents that had portions blacked out (to protect exempt material) and were re-photocopied before your review, even if you elect not to take them.

May I request records in a specific format?

The Freedom of Information Law deals with requests for existing records. An agency is not required to create a new record or format in response to requests.

Does the law apply to computer records?

Yes. The term "record" applies to all information kept by an agency, in any form, including electronic data that is received, sent or maintained by a government organization.

Source: New York State Committee on Open Government

COMMON ROADBLOCKS

- You are told the records you want are confidential.
- You are told to explain why you want the records before they will be provided.
- You are told your request does not adequately describe the records you want or is overly broad.
- You are told the records are not kept by the agency.

REALITY CHECK

- An agency must turn over records unless disclosure would invade a person's privacy or prevent the agency from carrying out its duties. Even then, you may still be entitled to part of the records you want or to "statistical or factual tabulations and data" contained in the records. You should ask if the records you want can be redacted or partially "blacked out" so they can be released.
- An agency cannot require that you explain why its records are being sought or what the intended use of its records might be, unless the request is for a list of names and home addresses, in which case the agency can require an assurance they won't be used for commercial or fund-raising purposes. You should cite this provision of the Freedom of Information Law.
- Each agency is required to appoint a records access officer whose duties include helping you identify the records you want. You should ask that person for help to refine your request.
- Each agency is required to maintain a "subject matter list" that is detailed enough that you can tell what types of records the agency keeps or what file categories it uses. You should ask to see this list. You can also request a written affirmation that the agency does not have the records you want.



FOR MORE INFO

If you need advice regarding the Freedom of Information Law, contact the Committee on Open Government at 474-2518 or visit their Web site at www.dos.state.ny.us/coog/coog.html