



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Official ELECT Advisory

DATE: September 3, 2024

SUBJECT: FOIA Fall 2024 Reminders

WHY THIS IS NEEDED: As we are going into a very busy fall election season, ELECT is providing resources and reminders regarding records availability.

Many localities have received requests for the following records:

- Officers of Election List;
- Drop off Location Chain of Custody form;
- Logic & Accuracy (L&A) testing documentation;
- Provisional Ballot logs; and
- Campaign Finance records

As a reminder, election records are governed by Virginia Freedom of Information Act (FOIA) (§ 2.2-3700 *et seq.*) and Title 24.2 of the Virginia Code. Title 24.2 may have more specific eligibility requirements and election-specific exemptions, and is controlling if there is any conflict with FOIA and 24.2. Pursuant to § 2.2-3704, FOIA is to be broadly construed. Unless there is an exemption for a record under FOIA, that record is releasable.

HOW THIS AFFECTS YOU: This fall, General Registrars may see an increase in requests ahead of the general election. It is important to keep the following in mind:

Officers of election list: Only political parties or candidates are authorized to receive a copy of a list of officers of election from the general registrar or secretary of the Electoral Board, for a reasonable cost. This list must contain the name, party designation, and precinct assignment of the officers of election (§ 24.2-115). A list containing the names of the officers of election must be posted for public inspection in the general registrar's office.

Chain of custody documents for drop off locations: In general, chain of custody documents are releasable under FOIA. However, sensitive personal information within chain of custody documents must be redacted.

L&A testing documentation: Records not within an exemption must be released. In general, records regarding L&A testing are available under FOIA: L&A checklists, results tapes, the ELECT633 L&A Testing Certification form, etc.

Provisional ballot logs: Pursuant to § 24.2-653.01, an electoral board must hold a meeting in which provisional voter eligibility is determined. Authorized representatives are provided redacted copies of the Provisional Log because they are permitted to attend the provisional ballot meeting according to § 24.2-653.01 (B).

Campaign finance records: As a reminder, campaign finance records are subject to disclosure under § 24.2-946.2. These records are available to anyone: residence in the Commonwealth is not required.

Please note, FOIA does not require General Registrars to provide responses to future requests (§ 2.2-3704). Upon receipt of a request for a record which does not exist, a General Registrar may offer the requester the option to resubmit their request when the record becomes available.

ACTION ITEMS: Please review ELECT's previously released guidance (attached), and reach out to the FOIA team with any remaining questions. Also note, the [FOIA Advisory Council](#) always has helpful resources.

CONTACT: **For FOIA related questions:** Email foia@elections.virginia.gov

For all other matters:

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ADVISORY NUMBER:

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