What can I do if my records request is denied?

A citizen who believes a State agency wrongfully denied access to public records can file suit in state court or submit a petition within 60 days to the Chief Deputy Attorney General, who will investigate and determine whether the State agency violated FOIA.

A citizen who believes a public body other than a State agency wrongfully denied access to public records can file suit in state court or submit a petition to the Attorney General's Office, which will investigate and determine whether the public body violated FOIA. The Attorney General may file suit on behalf of a citizen to compel the public body to comply with FOIA.

What can I do if I believe a public body has violated FOIA's open meeting requirements?

Any citizen may challenge the validity of an action taken by a public body by filing suit in state court. Citizens may also petition the Attorney General's Office to determine whether an open meeting violation has occurred or is about to occur. The Attorney General handles petitions involving a public body other than a State agency; petitions involving a State agency are handled by the Chief Deputy Attorney General.

How can I file a petition/seek additional info?

To file a FOIA petition, submit a written complaint and attach any correspondence between you and the public body to:

Delaware Department of Justice
ATTENTION: FOIA Deputy Attorney General
820 North French Street
Wilmington, DE 19801

General questions about Delaware's FOIA law or specific questions about requests submitted to the Attorney General's office should be directed to the Department of Justice FOIA coordinator at (302) 577-8400 or by e-mailing OpenGovernment@state.de.us.

Delawareans have the right to expect government transparency, and our State's Freedom of Information Act (FOIA) guarantees citizens' access to information about our state and local governments.

The job of the Attorney General's Office is to ensure that you obtain the information and access you deserve by enforcing Delaware's FOIA law.

Over the past several years, our state government has taken steps to become more transparent, and my Office has worked with the General Assembly to strengthen FOIA to give citizens easier access to information about their government.

Inside this brochure, you will find information on how to use FOIA, answers to frequently asked questions, and an explanation of how the Attorney General's Office can help you.

Beau Biden
Attorney General

FOIA Freedom of Information Act

Protecting Delawareans' Right to Know

Delaware Department of Justice

Attorney General
Joseph R. "Beau" Biden, III

Civil Division

New Castle County	• (302) 577-8400
Kent County	• (302) 739-4211
Sussex County	• (302) 856-5353
Para asistencia en Español	• (877) 851-0482

www.attorneygeneral.delaware.gov
Email: AttorneyGeneral@state.de.us

What is FOIA?

FOIA, Delaware's "sunshine law," helps ensure transparency and government accountability through an informed electorate. Specifically, it gives Delawareans the right to:

- inspect and copy public records
- be made aware of and attend gatherings of public bodies where public business will be discussed or conducted
- challenge a public body's denial of access to records or actions taken by a public body at a meeting that violated FOIA

FOIA also imposes certain obligations on public bodies, including the duty to:

- provide reasonable assistance to the public in identifying and locating public records
- give advanced public notice of meetings and provide meeting agendas beforehand
- prepare meeting minutes and make those minutes available for public inspection

The Delaware Department of Justice helps enforce FOIA in several ways. Its Civil Division provides legal advice to many State agencies, including guidance on meeting their obligations under FOIA. It is also charged with investigating complaints by citizens who believe their rights under FOIA have been violated by state and local public bodies.

Frequently Asked Questions

Does FOIA apply to all government branches?

No. FOIA applies to public bodies in the executive and legislative branches of state and local government. It does not apply to the courts. Citizens have access to certain judicial records under other applicable law; visit the Court's website to learn more at www.courts.delaware.gov.

How can I look at public records under FOIA?

Submit a detailed written request to the public body. Requests may be submitted in person, by mail, email, or fax. Public bodies are also required to accept online requests; contact information and a request form for state agencies is available at www.delaware.gov/topics/foia; other public bodies maintain their own online request portals.

Public bodies must designate a FOIA coordinator to assist citizens in obtaining records and to assist the public body in locating and providing them. Public bodies must generally respond within 15 business days. If a request is granted, citizens can inspect the records during regular business hours.

Can records be withheld from inspection?

Certain files, records and information are exempt under FOIA from public inspection. They include personnel, medical and pupil files; trade secrets and confidential commercial or financial information; civil or criminal investigatory files; records pertaining to pending or potential litigation; emails received or sent by members of the General Assembly or their staff; records that could jeopardize the security of a government building or endanger an individual; and communications between members of the General Assembly, between those members and their constituents, and by members of the General Assembly on behalf of their constituents.

Will copying public records cost me anything?

FOIA permits public bodies to charge photocopying, administrative and other fees associated with processing a records request and to require payment of a portion of estimated fees before processing a request.

Can I attend any government meeting?

Most state, county, and local legislative and executive branch bodies and offices are public bodies under FOIA. Certain public bodies are exempt from FOIA's open meeting requirements, including those headed by a single executive branch official.

Can meetings be closed to the public?

FOIA permits public bodies to meet in executive session, out of public view, to discuss sensitive matters, including: job applicant qualifications; collective bargaining or pending litigation; documents that are not public records; disciplinary and dismissal cases; and personnel matters.

Do I have the right to speak at a public meeting?

Not under FOIA. Each public body has its own rules and procedures for public meetings and most allow time for public comment.

FOIA determinations (commonly referred to as "Opinions") issued since 1995 are available at http://opinions.attorneygeneral.delaware.gov.