

# **Mecklenburg County Public Library Freedom of Information Act Policy**

## **Generally**

The Mecklenburg County Public Library (“MCPL”) is committed to full compliance with Virginia’s Freedom of Information Act (“FOIA”), and shall process all requests for information in accordance with the procedures set forth in the Virginia Freedom of Information Act, (Code of Virginia § 2.2-3700 *et seq.*), this policy, and in accordance with all applicable law.

## **Fee for Search Time and Copying**

An “at cost” fee shall be charged to the requestor for the actual cost incurred in accessing, duplicating, supplying, or searching for the requested MCPL public records. In any case where MCPL determines in advance that charges for producing the requested records are likely to exceed \$200.00, MCPL may, before continuing to process the request, require the requestor 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. The period within which MCPL is required to respond under applicable law shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requestor. Before processing a request for records, the Library Director or designee may require the requestor to pay any amounts owed to MCPL for previous requests for records that remain unpaid 30 days or more after billing.

## **Regulations/Rights & Responsibilities**

The Library Director as its FOIA Officer shall be responsible for maintaining a written FOIA Rights & Responsibilities document for regulating the business of receiving and responding to FOIA requests in accordance with this policy, the Virginia Freedom of Information Act, and all other applicable law.

The Library Director as its FOIA Officer shall be responsible for posting the FOIA Rights & Responsibilities document on the library’s website ([www.mecklib.org](http://www.mecklib.org)).

*FOIA Policy originally approved by MCPL Trustees on May 13, 2015.*

*Revision approved by MCPL Trustees on July 20, 2016.*

**Mecklenburg County Public Library**  
**Freedom of Information Act**  
**Rights & Responsibilities:**  
**The Rights of Requesters and the Responsibilities of**  
**Mecklenburg County Public Library**  
**under the Virginia Freedom of Information Act**

The Virginia Freedom of Information Act (FOIA), located § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly.

The Mecklenburg County Public Library ("MCPL") is committed to full compliance with Virginia's Freedom of Information Act ("FOIA"), and shall process all requests for information in accordance with the procedures set forth in the Mecklenburg County Public Library Freedom of Information Act Policy, this Rights & Responsibilities document, and in accordance with all applicable law.

**Your FOIA Rights**

- You have the right to request to inspect **or** receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.

- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA. Alternatively, you may contact the FOIA Council for a nonbinding advisory opinion.

## **Making a Request for Records from Mecklenburg County Public Library**

- You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA.
  - From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request if you elect to not put it in writing.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we can identify and locate the records that you are seeking.
- Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy **records**; it does not apply to a situation where you are asking general questions about the work of Mecklenburg County Public Library—or specific questions that do not have corresponding relevant records—nor does it require Mecklenburg County Public Library to create a record that does not exist.
- You may choose to receive electronic records in any format used by Mecklenburg County Public Library in the regular course of business.
  - For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records
- If we have questions about your request, a member of the MCPL staff will attempt to contact you (using the contact information provided in your request) to clarify the type of records being sought, to attempt to reach a reasonable agreement about a response to a large request, or to obtain other information necessary to respond to the FOIA request. Please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure

that we understand what records you are seeking.

**To request records from Mecklenburg County Public Library—including all four of its locations (Boydton Public Library/HQ, Butler Memorial Library [Chase City], Burnett Library & Learning Center [Clarksville], and R.T. Arnold Library [South Hill]), you may direct your request to Library Director Leigh Lambert.**

**She can be reached at:**

**Mecklenburg County Public Library**

**Leigh Lambert, Library Director**

**1294 Jefferson Street**

**P.O. Box 10**

**Boydton, VA 23917**

**Phone: (434)-738-6580**

**Fax: (434)-738-6070**

**E-mail: [llambert@srlib.org](mailto:llambert@srlib.org).**

**You may also contact her with questions you have concerning requesting records from Mecklenburg County Public Library. In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at [foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov), or by phone at (804) 225-3056 or [toll free] 1-866-448-4100.**

### **Access to Records**

1. Public records subject to disclosure under FOIA shall be open to inspection and copying between 9am and 5pm Monday through Friday at the Mecklenburg County Public Library's Headquarters facility (1294 Jefferson Street, Boydton, VA). A requestor will be notified (within the allowable timeframe) when the documents are available.
2. Requests shall be made (by the requestor) or transcribed on the "Mecklenburg County Public Library Request for Public Records" form.
3. Unless otherwise specified by the Library Director, inspection of records shall take place at the Headquarters facility of the Mecklenburg County Public Library, and shall not be removed from that site.
4. Copies may be requested in lieu of or at the time of inspection, subject to the charges listed below. Nonexempt records maintained in an electronic database shall be produced in any tangible medium or format identified by the requestor that is regularly used in the ordinary course of business by Mecklenburg County Public Library, including posting the records on a website or delivering the records through an electronic mail address provided by the requestor.

5. One of the following forms of photo identification must be presented, or a photocopy thereof must be provided, before any person shall be allowed to inspect any records or receive copies of any records:
  - Press identification identifying the requestor as a representative of a newspaper or magazine with circulation in the Commonwealth, or of a radio or television station broadcasting in or into the Commonwealth; or
  - Driver's License or other official government-issued photo identification showing that the requestor is a citizen of the Commonwealth.
6. The Library Director or designee shall be present during inspection or copying of records. A record of each inspection shall be made using the "Mecklenburg County Public Library Inspection of Documents Responsive to a Freedom of Information Act Request" form.

### **Mecklenburg County Public Library's Responsibilities in Responding to Your Request**

- Mecklenburg County Public Library must respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.
- The reason behind your request for public records from Mecklenburg County Public Library is irrelevant, and you do not have to state why you want the records before we respond to your request. FOIA does, however, allow Mecklenburg County Public Library to require you to provide your name and legal address.
- FOIA requires that Mecklenburg County Public Library make one of the following responses to your request within the five-day time period:
  - 1) We provide you with the records that you have requested in their entirety.
  - 2) We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
  - 3) We provide some of the records that you have requested, but withhold other records. We cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld, and must provide you with the remainder

of the record. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.

- 4) We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.
  - 5) If it is practically impossible for Mecklenburg County Public Library to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 working days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before we go to court to ask for more time.

### **Processing of Requests**

1. All MCPL FOIA requests will utilize the “Mecklenburg County Public Library Request for Public Records” form, whether used by the requestor to make the request or transcribed by the MCPL employee receiving the request.
2. All MCPL FOIA requests and associated documents/information shall be immediately forwarded to the Library Director. The Library Director shall be 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 or required.
3. The Library Director or designee shall, after receiving a request, promptly make an initial determination as to whether the requested records exist, will be lawfully withheld (either in whole or part), or if it is practically impossible to provide the requested records or to determine whether they are available within five working days.
4. If the Library Director is uncertain whether the requested records exist or where they may be located, efforts shall be promptly initiated to determine whether the requested records exist and, if so, to locate the records.

5. If the requested records will be made available (either in whole or in part), the Library Director or designee shall promptly consult with library staff to determine the associated cost, as provided under “Costs,” below.
6. If the requestor has asked for an advance determination of the cost, or if the cost is expected to exceed \$200.00, the requestor shall be notified in advance of the cost associated with the request in accordance with the procedures set forth in “Costs” below.
7. If the requestor inspects documents at MCPL, a record of such inspection shall be created using the “Mecklenburg County Public Library Inspection of Documents Responsive to a Freedom of Information Act Request” form.

### Costs

- A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia.
- You may have to pay for the records that you request from Mecklenburg County Public Library. FOIA allows us to charge for the actual costs of responding to FOIA request. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.

The following costs shall be charged at the rates indicated, not to exceed the actual cost:

- Staff member search time, charged by the quarter hour, depending on the staff member(s) involved in the search. Please inquire with the Library Director to learn about the specific quarter hour cost range.
  - Black & white photocopies (including those necessary to perform redactions), charged at a rate of \$0.20 per single side copy.
  - Color photocopies (including those necessary to perform redactions), charged at a rate of \$0.50 per single side copy.
  - Incidental out-of-pocket costs necessary to assemble the records (i.e. phone or postal charges)
- If we estimate that it will cost more than \$200.00 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before

proceeding with your request. The five days that we have to respond to your request do not include the time between when we ask for a deposit and when you respond.

- You may request that we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, Mecklenburg County Public Library may require payment of the past-due bill before it will respond to your new FOIA request.

### **Types of records**

The following is a general description of the types of records held by Mecklenburg County Public Library:

- Personnel records concerning employees and officials of Mecklenburg County Public Library
- Records of contracts which Mecklenburg County Public Library has entered into
- Library records that identify patrons, materials (books, DVDs, etc.), and that identify materials' circulation—the borrowing of materials by patrons

If you are unsure whether Mecklenburg County Public Library has the record(s) you seek, please contact Library Director Leigh Lambert directly at:

Address—1294 Jefferson Street, P.O. Box 10, Boydton, VA 23917

Phone—(434)-738-6580

Fax—(434)-738-6070

[E-mail—llambert@srlib.org](mailto:llambert@srlib.org)

### **Commonly used exemptions**

The Code of Virginia allows any public body to withhold certain records from public disclosure. Mecklenburg County Public Library commonly withholds records subject to the following exemptions:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Vendor proprietary information (§ 2.2-3705.1 (6))



- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
- Library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed. (§ 2.2-3705.7(3)).

### **Policy regarding the use of exemptions**

- The general policy of Mecklenburg County Public Library is to invoke the personnel records exemption in those instances where it applies in order to protect the privacy of employees and officials of Mecklenburg County Public Library.
- The general policy of Mecklenburg County Public Library is to invoke the contract negotiations exemption whenever it applies in order to protect Mecklenburg County Public Library's bargaining position and negotiating strategy.
- The general policy of Mecklenburg County Public Library is to invoke the information in library records exemption in those instances where it applies in order to protect the privacy of library patrons when it applies to information contained in library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed. (§ 2.2-3705.7(3)).

*FOIA Administrative Regulation originally approved by MCPL Trustees on May 13, 2015.  
Revision, renamed as FOIA Rights & Responsibilities, approved by MCPL Trustees on July 20, 2016.*