

The Ask: Getting Public Records You Need

New England Newspaper & Press Association

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1. Read your state Open Government Laws (Public Records/Open Meeting) word-for-word at least once a year. (Make it a birthday present to yourself, or do it each New Year's Day!) Look at the Federal Freedom of Information (FOI) Act too.
2. Chat often with government workers that have documents flow across their desks.
3. Make verbal requests first (bring a book -- sit and wait for simple requests).
4. When you put your request in writing, keep it simple. Give enough details to make the records identifiable.
5. Be puzzled when records are not released. (Like asking "Why no comment?" to an uncooperative news source.)
6. Never – Never -- accept "No" for an answer. Everybody has a boss (and those people each have a boss.)
7. Be assertive, but don't be arrogant!
8. Write news stories about denials of public records for you and other media/private citizens.
9. You are not required in many states to explain why you want a public record. Don't offer a reason.
10. Never offer to pay in the initial letter. If pressed to pay: First ask for free copies based on the federal law – educational/public interest.
11. Make sure your request has your contact information, including phone numbers, e-mails etc. Consider sending copies to other officials.
12. Consider submitting separate requests at the same time so you can get easy records, while the debate goes on for the disputed items.
13. Tell officials ahead about your FOI request and call to confirm receipt of the written copy. E-mail saves time and provides proof. Snail mail is slow.
14. Remind officials about the time limit for a response. (Never provide the whole law or citations for them to look up in your written request.)
15. Ask for expedited responses, but also understand time needed for large requests. (Be reasonable)

16. Make sure denials are given in writing and have a proper and lawful reason. Appeal, appeal, appeal.
17. Understand what costs/charges are possible. (In Vermont – actual cost for copies is five cents each/ nine cents two-sided. Inspection is free).
18. If denied a court record/file by a clerk, submit a note to the judge on the spot. Ask why the file is sealed and request the sealing order, which is normally required. Write news stories about it. You don't need a lawyer to scribble a note.
19. Think outside the box, especially when officials drag their feet. Who else might have the records?
20. Think 3 times before withdrawing a request, especially if they ask you – or you agree -- to “modify” your request. Your second letter starts the clock over. Stick with the first request and send a letter you are “suspending” a portion of the initial request.
21. Write about where politicians stand on Public Records. (“Please give 3 examples of your personal efforts to improve Open Government.”)
22. Set a quota for filing FOI requests. (Mark your calendar: One every Thursday? One every other Thursday? One the first Thursday of the month?)
23. Ask the department/agency to see its retention schedule for documents.
24. Turn to New England First Amendment Coalition, state or regional press associations, Investigative Reporters and Editors, Reporters Committee for Freedom of the Press, ACLU, and Common Cause for help. The Secretary of State and Attorney General also have been helpful in a few states. Turn to other reporters/editors in your newsroom or in your group.
25. Say “Thank you.” And say it often. (Today, tomorrow and after the story appears. Officials love to hear it.)

Mike Donoghue was a longtime news and sports writer for the Burlington (Vt.) Free Press and adjunct professor of journalism at St. Michael's College. He frequently speaks on FOI issues. He has worked to improve access to public records, honored for helping get cameras into Vermont courtrooms and serves as the first vice president on the NEFAC Board. Mike is in five Halls of Fame, including the National Freedom of Information Coalition/Society of Professional Journalists. He is a former two-term president of the National Sportscasters and Sportswriters Association.

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