

Rights & Responsibilities:

The Rights of Requesters of EMS and Trauma Data and the Responsibilities of the Virginia Department of Health's Office of Emergency Medical Services (VDH/OEMS) under the Virginia Freedom of Information Act

Purpose of this document: Technically any request made to the VDH/OEMS for information is considered a Freedom of Information Act (FOIA) request. This document is a modified version of the VDH FOIA document and its purpose is to focus on data requests from the Trauma and EMS Registries. VDH maintains a list of common exemptions to FOIA which includes the Trauma and EMS Registries, which are exempt from FOIA by law.

VDH/OEMS generally will provide data from these sources if the request is de-identified and is determined to be valid. VDH/OEMS does retain the right to recuperate costs as allowed by FOIA and cannot guarantee the availability of statistical analysis. To obtain identifiable data, the requestor will need to obtain approval of the VDH Institutional Review Board.

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.

To request data from the EMS and/or trauma registries please use the Request for Data from the Office of EMS form and submit the request to Support@OEMSSupport.Kayako.com or go to <http://oemssupport.kayako.com/> and navigate to Data Request in the sites Knowledgebase and complete the form on-line. You may also mail your request to 1041 Technology Park Drive, Glen Allen, Virginia 23059 or call (804) 888-9149.

For other VDH request, go to <http://www.vdh.virginia.gov/Administration/FOIA/>

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.

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. VDH/OEMS commonly withholds records subject to the following exemptions:

- Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1. (§ 2.2-3705.5(5) of the Code of Virginia);
- 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));
- Medical and mental records (§ 2.2-3705.5(1) of the Code of Virginia);

Costs

- You may have to pay for the records that you request from VDH. FOIA allows us to charge for the actual costs of responding to FOIA requests. 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.
- If we estimate that it will cost more than \$200 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 does 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, VDH may require payment of the past-due bill before it will respond to your new FOIA request.

VDH's Responsibilities in Responding to Your Request

- VDH 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 VDH is irrelevant, and we cannot ask you why you want the records before we respond to your request. FOIA does, however, allow VDH to ask you to provide your name and legal address.
- FOIA requires that VDH make one of the following responses to your request within the five-day time period:
 - We provide you with the records that you have requested in their entirety.
 - 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.
 - 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.
 - If it is practically impossible for VDH 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 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.