



Freedom of Information Law

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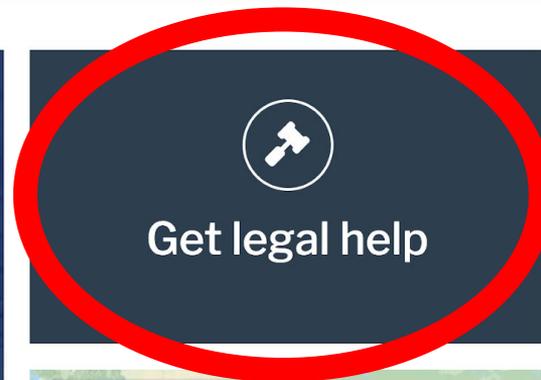
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FREEDOM OF INFORMATION LAW



Who Is Subject to FOI Laws?

- Only **public** agencies or bodies
 - Federal government agencies like FBI, Dept. of Education
 - State government agencies like DMV, state colleges
 - Local government agencies like city council, city police, school districts



Private Bodies



- Some private bodies perform public functions and may be covered by FOI laws
- Look for alternative “public” sources for info about private bodies

Three Types of FOI Law

- Open Records
 - State open records laws
 - Federal FOI
- Open Meetings
 - State open meetings laws
 - Federal government in the Sunshine Act
- Pocket FOI Laws
 - Federal Clery Act
 - IRS Form 990 (private school budgets)



Open Records Laws

A public body must make its records available upon request unless the records are *explicitly* exempted by statute.

State Open Records Laws

- Used to obtain access to records of state, county or local “government agencies” or “public bodies” (for example, city/campus police, school district, health department, etc.)
- Verbal request is usually sufficient
- If your verbal request is denied, document the name, title and response of the official you dealt with

Finding your law

www.rcfp.org/open-government-guide



The screenshot shows the website for the Reporters Committee for Freedom of the Press (RCFP). The top navigation bar is dark blue with white text for "About Us", "Supporters", "Legal Hotline", "Press Room", "Contact Us", and "Donate". On the right side of the navigation bar are social media icons for YouTube, Facebook, and Twitter. Below the navigation bar is a dark blue header section. On the left, the text "REPORTERS COMMITTEE" is written in large, white, bold, sans-serif capital letters, with "FOR FREEDOM OF THE PRESS" in smaller white text below it. To the right of this text is a white search bar with the word "email" inside and a blue "Sign Up" button. Below the header is a red navigation bar. On the left, it says "► Research Media Law Topics" with the subtext "Learn about topics that affect journalists". On the right, it says "► Browse Media Law Resources" with subtext "► Briefs & Comments ► Litigation ► Guides ► News ► Magazine". A white search bar with a magnifying glass icon is on the far right of the red bar. Below the red bar is a breadcrumb trail: "Home ► Browse Media Law Resources ► Guides". The main content area has a white background. The section title "Open Government Guide" is in a bold, dark blue font. Below it is a paragraph: "The **Open Government Guide** is a complete compendium of information on every state's open records and open meetings laws. Each state's section is arranged according to a standard outline, making it easy to compare laws in various states. If you're a new user of this guide, be sure to read the Introductory Note and User's Guide." Below this is a note: "*Please note: These guides cover state laws. We also have a separate **Federal Open Government Guide**.*" Underneath is a line of links: "Background: • Introduction • User's Guide • Credits". To the right of the main content is a vertical sidebar. At the top of the sidebar is a small image of a globe. Below it is the heading "Download/view as PDF:" followed by a list of state names in yellow buttons: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, and Hawaii. Below the list of states is a "Browse" section with a vertical line to its left. It contains three columns of state names, each preceded by a red dot: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Tennessee.

Federal FOI Law: Freedom of Information Act

- Records created, possessed or controlled by a federal agency or maintained by an entity under government contract
- Do **NOT** apply to:
 - Congress
 - Federal courts
 - Private corporations
 - Federally funded state agencies



FOI has its limitations

- Agencies aren't required to
 - Conduct research
 - Create a record that does not already exist
 - Add explanatory materials to any records disclosed
 - Analyze data



How to Request Records

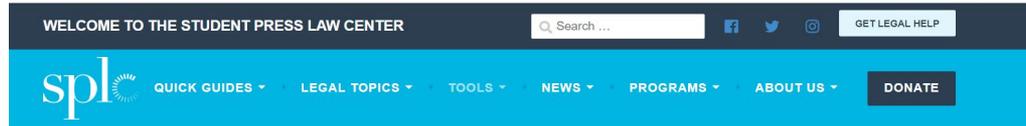


Requesting Records

- Verbal requests sometimes recognized by law
- Submit written request where required or to establish “paper trail”
 - Reasonably describe the record you are seeking
 - Send to agency or person responsible for keeping the record



www.splc.org/lettergenerator



Public Records Letter Generator

Since its launch in 1997, our [unique letter generator](#) has been used more than 100,000 times to assist journalists and other citizens obtain access to public records maintained by state or local government officials. The Student Press Law Center is happy to provide our letter generator free of charge as a public service.

In most cases, making a verbal request for records is a good first step. A professional but informal request in person may give you the information you need. But in some cases, especially when a verbal request has been denied, a written request letter is the best way to get the information you are seeking. Submitting an open records law request letter is not difficult. A complete, well-written request may help you avoid delays and further correspondence with a government agency.

The form below is designed to help you create a simple letter. It asks you for all pertinent information and guides you through the options available.



www.splc.org/lettergenerator

Part 3: What you are looking for?

Below, clearly describe what you want. Include identifying material, such as names, places, and the period of time about which you are inquiring. If you think they will help to explain what you are looking for, include news clips, reports and other documents describing the subject of your research when you mail your letter.

I request access to and a copy of ...

Please select the state to which your request is being sent from the list below:
If you choose none, you may have to edit your letter later.

State

Enter the name and address of the agency/office where you will send this request:

Name

State

Enter the name and address of the agency/office where you will send this request:

Name

Salutation

Agency/Office

Agency's Full Address

Part 4: Fee Limit

Enter a dollar limit for the amount of fees you are willing to pay. The agency will be told to notify you if the amount will exceed this. If you set an amount up front, the agency will begin to process your request and you can retain some control over the ultimate amount you will have to pay.

Amount: \$

What Happens Next?

Officials must either:

- Provide the records in a timely manner or
- Point to an exemption



If you believe your request has been improperly denied

- Contact the recordkeeper and politely cite the law
- Administrative appeal sometimes available
- Judicial review
- Fines and/or attorney fees may be available



Common Exemptions



Common Exemptions

- Records involving “ongoing criminal investigation”
- Information that would jeopardize national security
- Police techniques
- Some personnel records like hiring, firing, disciplinary
- Education records kept by a school



“Education Records”

- Includes most information that is directly related to a student and is maintained by the school
- Common examples: grades, disciplinary records, special education records



Family Educational Rights and Privacy Act (FERPA)

- Requires schools to provide a student (or sometimes parents) with a copy of his or her “education records” upon request
- Penalizes schools that release a student’s “education records” without student (or sometimes parental) consent



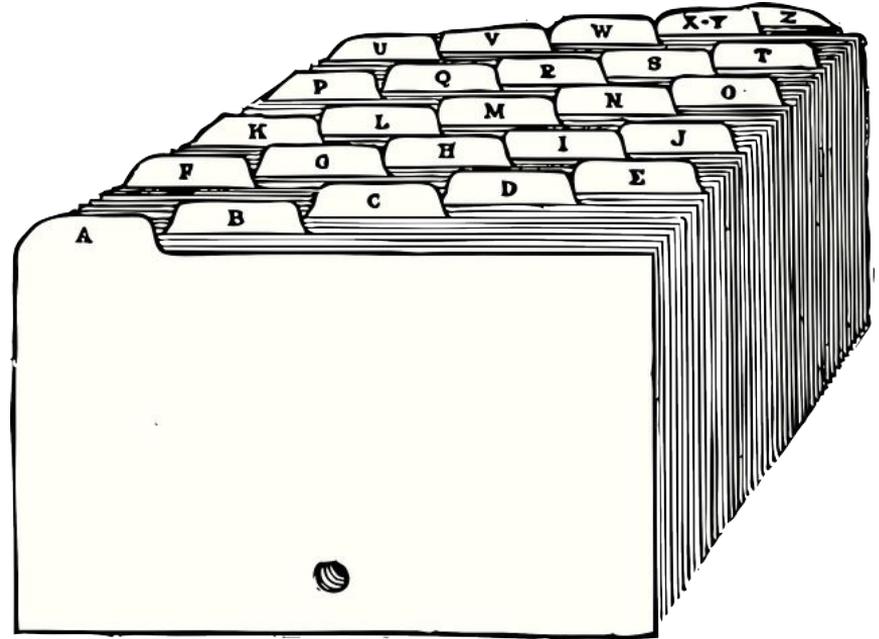
Family Educational Rights and Privacy Act (FERPA)

- FERPA does *not* prohibit student journalists from publishing or disclosing information about other students; it only applies to school officials
- FERPA only restricts release of an “education record” that identifies a specific student.



Commonly Requested Records

- Disciplinary records
- Records of sexual assault and campus crime
- Reports of employee misconduct
- Settlement and litigation documents
- Title IX records



What would you
like to know?



If you're wondering...

- How much money does my school spend on new football uniforms as compared to new textbooks?
- How much does the school district's superintendent get paid per year?



Ask for:

- Your school district's annual budget
 - Copies should be available at central administration office



If you want to know...

- If the school buses at your school are safe



Ask for:

- School bus safety inspection reports



If you're wondering ...

How clean is my school cafeteria?



Ask for:

- Your school's most recent cafeteria safety/health inspection report conducted by the Department of Health



Other reports to explore

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- Accreditation reports
- Academic performance reports
- Building inspection reports

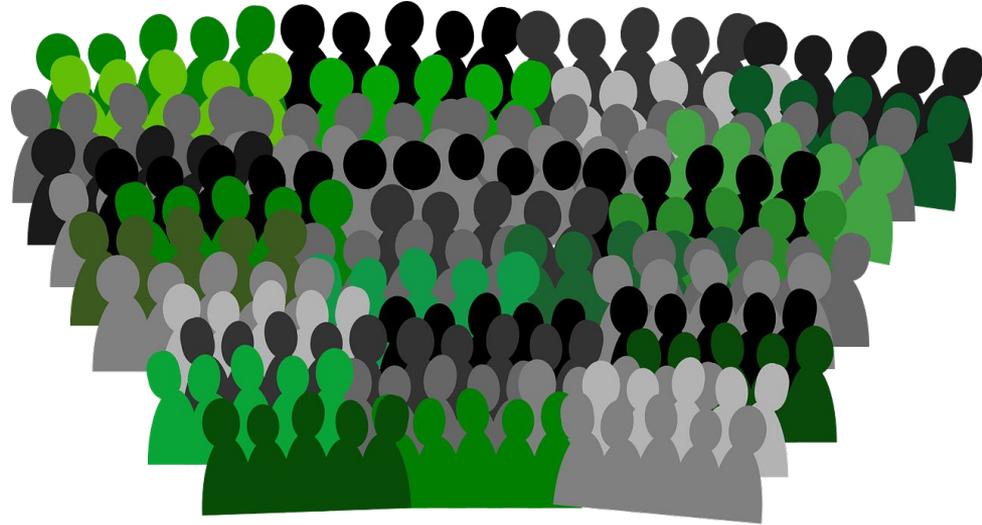


Open Meetings Laws

General Law: A public body must provide notice of all gatherings and allow public attendance unless meeting is *explicitly* exempted by statute.

Attending public meetings

- Show up
- Understand and be prepared to explain the law
- If told to leave, ask that the minutes of the meeting reflect your eviction

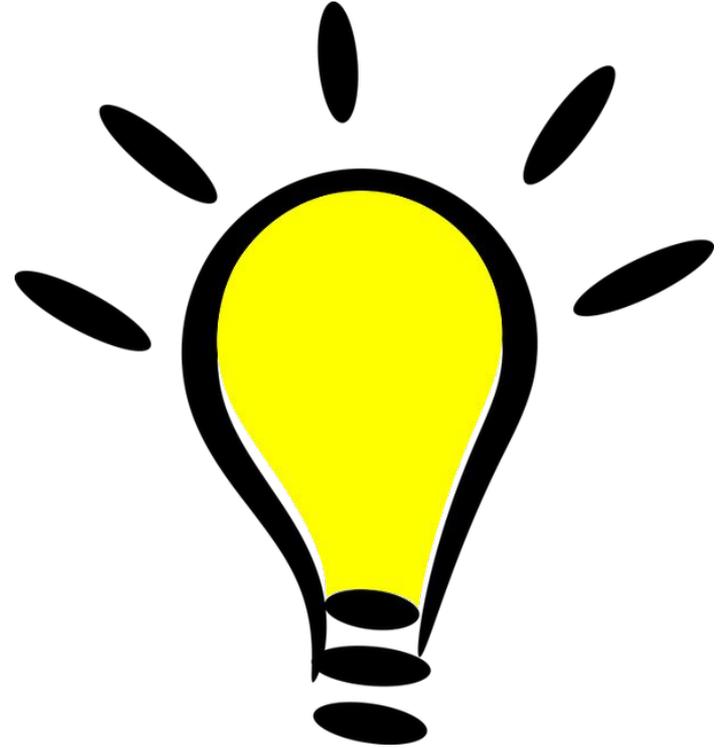


Common exemptions



- Discussion of personnel matters
- Discussion of individual students
- Matters involving highly personal information (e.g., medical, personal finance, test scores)
- Discussion of ongoing or contemplated legal proceedings
- Meetings to discuss the acquisition of real estate

Pocket FOI Laws



Federal Clery Act (Campus Crime)

- Applies to all public and private institutions receiving federal financial assistance
 - Annual campus security report
 - Daily campus police log
 - Timely alerts
- Noncompliance can result in a fine of up to \$54,000 for each violation and potential loss of eligibility for federal aid

Federal Student “Right to Know” Act

— — —

- Access to student graduation rates
- Access to athletic program information
- Access to accreditation reports



IRS Form 990

- Private school students will benefit from this
- www.guidestar.org



SPLC.org/LegalHelp

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Press Freedom for High School Student Journalists was originally written and produced by the Student Press Law Center in 2006 thanks to a grant from the Newspaper Association of America Foundation (now the News Media Alliance.) The presentation has been updated several times over the years.

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While every effort is made to ensure the accuracy of the information contained in *Press Law Primer for High School Student Journalists* it provides *general guidance and information only*. It is neither intended nor represented as a substitute for obtaining case-specific advice from a licensed and experienced media law attorney in your state.

You can help the Student Press Law Center create new generations of Americans who will understand and defend the First Amendment to the U.S. Constitution and the values it embodies through your tax-deductible contribution. Go to www.splc.org/give for details.



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