

**AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 3, Section 10-3.3 ENTITLED "REQUEST PROCEDURES; RESPONDING TO REQUESTS; TIME FOR PROCESSING REQUESTS; COSTS FOR PROCESSING REQUEST; HOW CHARGES ARE DETERMINED" OF THE POLICIES OF THE SUFFOLK CITY SCHOOL BOARD - FIRST READING**

**BE IT ORDAINED**, by the School Board of the City of Suffolk, Virginia that Chapter 10, Article 3, Section 10-3.3 entitled "Request procedures; Responding to requests; Time for processing requests; costs for processing request; how charges are determined" of the Policies of the Suffolk City School Board, be, and the same is hereby amended as follows:

**Section 10-3.3. Request procedures; Responding to requests; Time for processing requests; costs for processing request; how charges are determined.** — A. The School Board complies with the Virginia Freedom of Information Act. Except as otherwise specifically provided by law, all public records are open to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth and representatives of radio and television stations broadcasting in or into the Commonwealth during the regular office hours of the custodian of such records. Requests for access to records shall be made with reasonable specificity. Requests shall be directed to Suffolk Public Schools central office at 100 N. Main Street, P.O. Box 1549, Suffolk, Virginia 23439-1549. Requesters should make their requests using Suffolk Public Schools Request for Public Records Form, however use of the form is not mandatory. Requests received at the central office via telephone are transcribed onto the Suffolk Public Schools Request for Public Records Form by central office staff. Written requests other than on required form are appended to a copy of the form by central office staff, who fill out as much of the form as possible.

Officers, employees, and members of the School Board who fail to provide public records as required by FOIA because they altered or destroyed the requested records with the intent to avoid the provisions of FOIA are subject to penalties in their individual capacity of up to \$100 per record altered or destroyed.

Building office personnel shall provide the Request for Public Records Form and a copy of this policy upon request to any person interested in obtaining access to records, and instruct the requester to direct the request to the central office. Telephone inquiries are redirected to the central office. Any written requests received by building personnel are immediately forwarded to the central office with a notation indicating the date and time the request was received.

B. Promptly, but in all cases within five working days of receiving the request, the school division provides the requested records to the requester or makes one of the following responses in writing:

- (a) The requested records are being entirely withheld because their release is prohibited by law or because the Virginia Freedom of Information Act gives their

custodian discretion to withhold them. The response will identify with reasonable particularity the volume and subject matter of the withheld records, and, with respect to each category of withheld records, cite the specific Virginia Code section(s) or other law that authorizes the withholding of the records.

- (b) The requested records are being provided in part and are being withheld in part because the release of part of the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of the records. The response will identify with reasonable particularity the subject matter of the withheld portions and cite, with respect to each category of withheld records, the specific Virginia Code section(s) or other law which authorizes the withholding of the records. When a portion of a requested record is withheld, the school division deletes or excises only that portion of the record to which an exemption applies and releases the remainder of the record.
- (c) The requested records could not be found or do not exist. If the school division knows that another public body has the requested records, the response includes contact information for the other public body.
- (d) It is not practically possible to provide the records or to determine whether they are available within the five-day period. Such response specifies the conditions which make a response impossible. If the response is made within five working days, one of the preceding responses is provided within an additional seven-day period.

The school division may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search and a response within the time outlined above will prevent the school division from meeting its operational responsibilities. Before proceeding with the petition, the school division will make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

C. When processing the request, the five-day period begins on the first working day following the day the request is received by the central office or by a building office, and ends at the close of business on the fifth working day following receipt of the request. "Day One" is considered the day after the request is received. The 5-day period does not include weekends and holidays. The reason behind a request for public records from Suffolk Public Schools is irrelevant and a requestor does not have to state why they want the records before there is a response to the request. VFOIA does, however, allow Suffolk Public Schools to require a requestor to provide their name and legal address. Any time that elapses between the time the requester is notified of an advance cost determination pursuant to the procedures detailed below and the time that the requester responds to that notice is not counted in calculating the five working days.

SUFFOLK Public Schools will make one of the following responses to a request within the 5-day time period:

1. We provide the records requested in their entirety.
2. We withhold all of the records requested, because all of the records are subject to a specific statutory exemption or exemptions. If all of the records are being

withheld, we must send a response in writing. That writing must identify the volume and subject matter of the records withheld and state the specific section(s) of the Code of Virginia that allows us to withhold the records.

3. We provide some of the records 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 the remainder of the record. We must provide the requestor a written response stating the specific section(s) of the Code of Virginia that allows portions of the requested records to be withheld.
4. We inform the requestor in writing that the requested records cannot be found or do not exist (we do not have the records requested). 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.
5. If it is practically impossible for Suffolk Public Schools to respond to the request within the 5-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us 7 additional working days to respond to the request, giving us a total of 12 working days to respond to the request.

If a request is made for a very large number of records and Suffolk Public Schools cannot provide the records within 12 working days without disrupting school division's organizational responsibilities, a petition maybe filed with the court for additional time to respond to the request. However, Suffolk Public Schools will make a reasonable effort to reach an agreement with the requestor concerning the production of the records before we go to court to ask for more time.

D. Except with regard to scholastic records requested pursuant to subdivision A 1 of Va. Code § 2.2-3705.4 that must be made available for inspection pursuant to the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and such requests for scholastic records by a parent or legal guardian of a minor student or by a student who is 18 years of age or older, Suffolk Public Schools may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying or searching for the requested records and makes all reasonable efforts to supply the requested records at the lowest possible cost. Suffolk Public Schools does not 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 schools. Any duplicating fee charged by Suffolk Public Schools will not exceed the actual cost of duplication. Prior to conducting a search for records, Suffolk Public Schools notifies the requestor in writing that it may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquires of the requestor whether the requestor would like to request a cost estimate in advance of the supplying of the requested records as set forth in Va. Code § 2.2-3704.F. A requestor may request that Suffolk Public Schools estimate in advance the charges for supplying the records requested. This will allow the requestor to know about any costs upfront, or give the requestor the opportunity to modify the request in an attempt to lower the estimated costs.

The requestor may have to pay for the records requested from the Suffolk Public Schools. VFOIA allows Suffolk Public Schools to charge for the actual costs of responding to VFOIA requests. This includes items like staff time spent searching for the requested records, copying costs or any other costs directly related to supplying the requested records. It does not include general overhead costs. Any costs incurred by the Suffolk Public Schools in estimating the cost of supplying the requested records will be applied toward the overall charges to be paid by the requestor for the supplying of such requested records.

If Suffolk Public Schools should estimate that it will cost more than \$200 to respond to a request, Suffolk Public Schools may require the requestor to pay a deposit, not to exceed the amount of the estimate, before proceeding with the request. The five days that we have to respond to the request does not include the time between when we ask for a deposit and when the requestor responds.

If a requestor owes us money from a previous VFOIA request that has remained unpaid for more than 30 days, Suffolk Public Schools may require payment of the past-due bill before it will respond to a new FOIA request.

D. E. The name and contact information for the person the School Board has designated as its Freedom of Information Act (FOIA) Officer is listed in regulation promulgated by Suffolk Public Schools and posted at the School Board office and on the division's website. The FOIA Officer serves as a point of contact for members of the public in requesting public records and coordinates the School Board's compliance with FOIA. The FOIA officer receives training at least once during each consecutive period of two calendar years beginning on the date on which the FOIA Officer last completed a training session by the School Board's legal counsel or the Virginia Freedom of Information Advisory Council.

F. After receiving a request for records, the FOIA Officer promptly determines whether any requested documents exist and, if they do, the number and location of those records. Where a portion of individual records must be redacted prior to inspection and copying, the cost of doing this is taken-into-account. Costs for production of public records will be based on the number of hours involved in order to provide the public records and they included the following: (1) Staff member search time, charged by the quarter hour; depending on the staff member conducting the search hourly wage rate; (2) Computer search time, charged by the quarter hour depending on the staff member conducting the search hourly wage rate; (3) Computer printouts will be charged at a per page rate as set by Suffolk Public Schools; (4) Photocopies (including those necessary to perform redactions) will be charged at a per page rate as set by Suffolk Public Schools; (5) Incidental out-of-pocket costs necessary to assemble the records (for example: phone, postage, or courier charges) will be set at its actual costs. (Adopted June 9, 2016; Ordinance Number 15/16-113; Effective Date: July 1, 2016; Revised February 8, 2018; Ordinance Number 17/18-50; Effective Date: February 8, 2018; Ordinance Number: 19/20-53; Revised/Effective Date: January 9, 2020)

**Legal Authority** – Virginia Code §§ 2.2-3704, 2.2-3704.2, 2.2-3714 (1950), as amended.

FIRST READING: \_\_\_\_\_

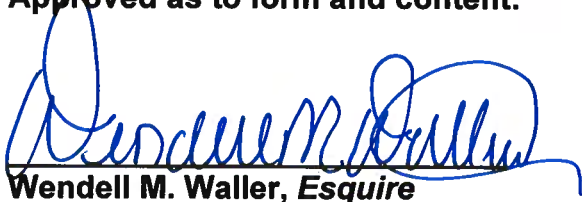
SECOND READING: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

TESTE: \_\_\_\_\_

CLERK

Approved as to form and content:



**Wendell M. Waller, Esquire**  
**School Board Attorney**