

# Freedom of Information Law (FOIL) Policy

## Board Approved Policy

Version: 1  
Effective: 10.1.2022

Approved By:  
Governance Committee &  
Full Board October 2022

Owner: Administration

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### 1. **Policy Statement:**

The CNYRTA will, in accordance with its published rules and applicable laws and regulations, make available for public review, all requested information records and shall provide copies of requested records except to the extent that disclosure of a record is not required based on an Exclusion stated below.

No CNYRTA employee, except in accordance with this policy, shall disclose any Authority record or any summary of the information in an Authority record to anyone other than an Authority employee, a member of the Authority's Board of Directors, or consultant under contract to the Authority.

### 2. **Purpose:**

The Freedom of Information Law ("FOIL"), which is set forth in Article 6 of the Public Officers Law, allows members of the public to access certain existing governmental records. FOIL pertains only to existing records that are not exempted from disclosure.

### 3. **Applicability:**

All Authority members, employees and interested parties.

### 4. **Resources & Related Procedures**

- Committee on Open Government: <http://dos.ny.gov/coog/>
- Public Officers Law, Article 6
- CNYRTA Freedom of Information Law (FOIL) Procedure
- [www.centro.org](http://www.centro.org)

### 5. **Definitions:**

Freedom of Information Law (FOIL) – is set forth in Article 6 of the Public Officers Law, allows members of the public to access certain existing governmental records.

Records Access Officer – Designated employee responsible for coordinating all responses to public requests for access to records of CNYRTA and/or each of its public benefit subsidiary corporations.

### 6. **Policy Detail:**

#### I. **REQUESTS FOR RECORDS**

- A. **Written Requests Only** - Record requests shall only be accepted in writing.
- B. **Responses** - The Authority shall respond to a request for records within five (5) business days of receipt.
  - i. Failure to comply with the time limitations listed above will constitute a denial of a request that can be appealed.
- C. **Denials** – FOIL policy applies to existing records that are not exempted from disclosure. In the event a request is made for records that do not exist or are exempted from disclosure, the request may be denied.

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- i. All denials shall be communicated in writing
  - D. **Appeals** - The Chief Executive Officer hears appeals regarding denial of access to records.
    - i. Any person denied access to records may appeal in writing within thirty (30) days of a denial.
    - ii. All appeals shall be determined in writing within 10 business days of receipt
    - iii. All appeals and determinations shall be communicated to the Committee on Open Government at 41 State St. Albany, NY 12231.
- II. **RECORDS ACCESS OFFICER**
  - A. **Designation** – The Director of Grants & Revenue Contract Administration is the designated Records Access Officer.
  - B. **Responsibility** - The Records Access Officer shall be responsible for completing all duties within the time required by applicable law and regulations including:
    - i. Coordinate all responses to public requests for access to records of CNYRTA and/or each of its public benefit corporations – including assisting persons seeking records in identifying the type of records sought.
      - 1. In the event a request is voluminous or locating the records sought involves substantial effort, the Authority may contact persons requesting records to ascertain the nature of record and attempt to reasonably reduce the volume of records requested.
    - ii. Maintain a reasonably detailed general list, by subject matter, of all records in its possession. Such list will not indicate whether such records are subject to disclosure pursuant to subdivision 2 of section 87 of the Public Officers Law.
    - iii. Upon request for copies of records, make copies available upon payment of any established fees. Individuals requesting copies shall not be permitted to remove original records from the premises of the Authority.
    - iv. Upon request, certify that a record is a true copy.
    - v. Upon locating the records
      - 1. Make records promptly available for inspection
      - 2. Deny access to the records in whole or in part and explain in writing
    - vi. Upon failure to locate records, certify that:
      - 1. The Authority is not the custodian for such records
      - 2. The records of which the Authority is a custodian cannot be found after diligent search.

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### III. OTHER PROVISIONS

- A. **Public Inspection Location & Hours** – Public inspection of records shall be permitted only at the main office of the Authority during the Authority’s regular business hours.
- i. The Records Access Officer reserves the right to arrange public inspection of records by appointment during business hours depending on the nature of items requested and primary work assignments
- B. **Public Notice** - The Authority will publicize, by posting in a conspicuous location:
- i. Where records are available for inspection and copying,
  - ii. The name, title, business address and business telephone number of the Records Access Officer,
  - iii. The right to appeal by any person denied access to a record, and
  - iv. The name and business address of the person or body to whom an appeal should be directed.
- C. **Fees** – There shall be no fee charged for the inspection, search, or certification of records. However, the Authority may charge a fee for copies of records.
- i. The fee for copying records shall not exceed \$.25 per page for photocopies not exceeding 8 ½ by 14 inches.
  - ii. If a record exceeds 8 ½ by 14 inches the fee for copies may not exceed the actual reproduction cost, excluding the fixed cost of the Authority.

### IV. EXCLUSIONS

- A. The Authority shall only produce records in the form that they are maintained by the Authority. The Authority shall not create any record not already possessed or maintained.
- B. The Authority shall deny access to records, or portions thereof, that:
- i. Are specifically exempted from disclosure by state or federal statute
  - ii. If disclosed, would result in an unwarranted invasion of personal privacy
  - iii. If disclosed, would impair present or imminent contract awards or collective bargaining negotiations
  - iv. Are trade secrets or are submitted to an Authority by commercial enterprise or derived from information obtained from a commercial enterprise and which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise
  - v. Are compiled for law enforcement purposes and which, if disclosed, would:
    1. Interfere with law enforcement investigations or judicial proceedings
    2. Deprive a person of a right to a fair trial or impartial adjudication
    3. Identify a confidential source or disclose confidential information relative to a criminal investigation

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4. Reveal criminal investigation techniques or procedures, except routine techniques and procedures
  - vi. If disclosed, could endanger the life or safety of any person
  - vii. Are inter-Authority or intra-Authority materials which are not:
    1. Statistical or factual tabulations or data
    2. Instructions to staff that affect the public
    3. Final Authority policy or determinations
    4. External audits, including but not limited to audits performed by the comptroller and the federal government
  - viii. Are examination questions that are requested prior to the final administration of such questions
  - ix. If disclosed, would jeopardize an Authority's capacity to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures
  - x. Are photographs, microphotographs, videotape, or other recorded images prepared under the authority of Section 1111-a of the vehicle and traffic law.
- C. In no event shall the Authority disclose the home address of an officer or employee, former officer or employee, a retiree, or the name or home address of a beneficiary.