WEST VIRGINIA UNIVERSITY
OFFICE FOR LEGAL AFFAIRS
WVFOIA PROCEDURE 1

Section 1. General

1.1 **Purpose**. - To establish a procedure for the implementation of the West Virginia Freedom of Information Act (WVFOIA).

1.2 **Authority**. - **WVU-BOG Policy 55 – West Virginia Freedom of Information Act**

1.3 **Scope**. - This procedure shall apply to all units, colleges, and divisions under the jurisdiction of the West Virginia University Board of Governors; and their employees who at any time may receive WVFOIA requests or who have access to responsive materials.

1.4 **Effective Date**. – December 11, 2009

1.5 **Revision History**. - This is the first written procedure enacted by the West Virginia University Office for Legal Affairs specifically related to requests for public records made pursuant to the WVFOIA.

Section 2. Procedure

2.1 Receiving a WVFOIA request- All Covered Entities who receive WVFOIA requests must, immediately upon receipt of the request, forward the request, via electronic mail to foia@mail.wvu.edu or by fax to 304-293-5752 to the Office for Legal Affairs.

(a) All Covered Entities upon receipt of a WVFOIA request, must immediately review records for potentially responsive Public Records. All responsive Public Records located must be sent to the Office for Legal Affairs as soon as possible but no later than seventy-two (72) hours, excluding Saturday, Sunday, legal and/or WVU holidays, from receipt of the WVFOIA request unless otherwise instructed by the Office for Legal Affairs.

(b) The WVFOIA, generally, does not require the creation of Public Records; thus, employees shall not create Public Records without the consent of the Office for Legal Affairs.

(c) The WVFOIA Officer, in consultation with the General Counsel's Office, shall review all responsive Public Records prior to their release to the public.

2.2 Responding to a WVFOIA request- WVFOIA mandates that upon receiving a request for Public Records made pursuant to WVFOIA, WVU shall do one or more of the following, within a maximum of five business days of receipt, not including Saturdays, Sundays, legal and/or WVU holidays:

(a) Furnish copies of the requested Public Records;

(b) Advise the person making the request of the time and place at which he or she may inspect and request copies of the Public Records during business hours;

(c) Deny the request, in whole or in part, stating in writing the reasons for such denial;

(d) Request clarification of the WVFOIA request; or

(e) Request an extension of time within which to fulfill the WVFOIA request.

2.2.1 All requests for Public Records made pursuant to WVFOIA must state with reasonable specificity the records sought. It shall be the sole responsibility of the WVFOIA Officer, in consultation with the General Counsel's Office, to determine if a WVFOIA request is reasonably specific.

2.2.2 For the purposes of this policy, the five business day response period shall begin on the first business day after the request is received if receipt is during regular business hours. Regular business hours shall be defined as Monday through Friday, 8:15 am to 4:45 pm.

2.2.3 Under normal circumstances, responsive Public Records shall be provided in paper format. If the person or entity making the request seeks responsive Public Records in magnetic, electronic or computer format and the requested Public Records exist, at the time of the request, in magnetic, electronic or computer format, the requested Public Records shall be provided in the requested format.

2.2.4 The WVFOIA Officer, in consultation with the General Counsel's Office, shall be responsible for the removal or redaction of information that is not responsive to the request and/or the removal or redaction of information exempt from disclosure by the provisions of the statute or other applicable law, rule or privilege.

2.2.5 If a Public Record exists in magnetic, electronic or computer format, and requires the removal or redaction of information, those Public Records shall not be provided in magnetic, electronic or computer format unless agreed to by the WVFOIA Officer at his or her sole discretion.

2.3 Exemptions- The Office for Legal Affairs shall advise with regard to any record which may not be disclosed pursuant to W.V. Code § 29B-1-4(a).

Section 3 Fees

3.1 All fees may, upon the request of the Office for Legal Affairs, be paid to WVU prior to the release of the Public Records to the person or entity making the request.

3.2 For all Public Records requests which result in ten (10) pages or less of responsive Public Records, no fee shall be levied against a person or entity making the request. No fees shall be charged to persons viewing the responsive Public Records only.

3.3 WVU has established a fee of $1.00 dollar per page of responsive Public Records copied. WVU has also established a fee for all requests that require portions of electronic copies to be redacted, as well as a fee for all requests requiring that a CD-ROM, flash media or e-mail be furnished to the party making the request. These fees are reasonably calculated to reimburse WVU for the actual cost in making reproductions of the requested Public Records.

3.3.1 A minimum fee of $10.00 shall be charged per CD-ROM media or Flash media provided to the person or entity making the request.

3.3.2 A minimum fee of $10.00 per ten (10) megabytes of data provided to the person or entity making the request using an alternative transmission method such as e-mail or File Transfer Protocol (FTP). Each additional ten (10) megabytes, or portion thereof, shall cost an additional $10.00.

3.4 Some requests may require the WVFOIA Officer to estimate the fee charged to a person or entity making a request. If the estimated fee exceeds $200.00 (200 pages), the WVFOIA Officer may require the person or entity making the request to pay a deposit, up to and including the amount of the original estimate, before proceeding with the request.

3.5 All responsive Public Records shall be mailed using the United States Postal Service. If a person or entity requests, in writing, an alternate delivery method, the WVFOIA Officer shall deliver the responsive Public Records via the alternate delivery method requested and shall bill the requestor the actual cost of shipping.

Section 4 Responsibility for Interpretation

4.1 Responsibility for interpretation of this procedure rests solely with the Office for Legal Affairs. Any procedures developed by the Office for Legal Affairs or material changes thereto shall be posted for ten (10) working days before the procedures become effective.

Section 5 Responsibility for Implementation

5.1 Implementation of this procedure to the matters herein considered is the sole responsibility of the WVFOIA Officer, in consultation with the Office for Legal Affairs.