

## Freedom of Information Act\*

### 5 U.S.C. §552

Each agency shall publish in the *Federal Register* descriptions of its **organizations, method of functioning, procedural and substantive rules**, and explanations for how the public may obtain information for all of the above. Matters required to be published in the *Federal Register* and not so published are not binding on persons who do not have actual and timely notice. [5 U.S.C. §552(a)(1)]

Agencies generally must make **available for public inspection and copying** their opinions and orders, statements of policy and interpretations, and administrative staff manuals and instructions, including indexes and supplements. These materials may only be relied on or cited as precedent against a party without actual notice if they have been indexed and either published or otherwise made available. [5 U.S.C. §552(a)(2)]

An agency shall promptly comply with proper requests for records not published or made available for public inspections. [5 U.S.C. §552(a)(3)]

Each agency shall promulgate regulations establishing **reasonable fees** for processing requests, limited to the cost of search, duplication, or review. [5 U.S.C. §552(a)(4)]

Certain documents must be furnished free of charge if disclosure is in the public interest. [5 U.S.C. §552(a)(4)(A)(iii)]

An agency generally may not require advance payment of fees. [5 U.S.C. §552(a)(4)(A)(v)]

An action regarding **waiver of fees** shall be heard de novo, but review shall be limited to the record before the agency. [5 U.S.C. §552(a)(4)(A)(vii)]

The Act provides for jurisdictional and procedural rules governing actions to enjoin an agency from withholding records and other actions. [5 U.S.C. §552(a)(4)(B)] A court may assess attorneys fees and other litigation costs against the United States when a complainant substantially prevails. [5 U.S.C. §552(a)(4)(E)]

The Act provides for the procedure to be followed for **disciplinary action** against an officer or employee who arbitrarily and capriciously **withholds records**. [5 U.S.C. §552(a)(4)(F)]

A court that orders production of agency records may punish noncomplying agency employees for contempt. [5 U.S.C. §552(a)(4)(G)]

Agencies shall make available the final votes of each member in agency proceedings. [5 U.S.C. §552(a)(5)]

The Act provides for procedures an agency must follow in responding to requests and appeals, including specific deadlines. [5 U.S.C. §552(a)(6)]

Agency matters **exempt from disclosure** include matters relating to national defense or foreign policy, an agency's internal personnel rules, matters specifically exempted by statute, trade secrets and privileged or confidential commercial matters, inter- and intra-agency memoranda not available by law outside of litigation, personnel or medical files, records or documents compiled for law enforcement purposes to the extent disclosure could reasonably be expected to harm individuals or ongoing investigations, reports prepared by or for an agency regulating financial institutions, and geological or geophysical data concerning wells. [5 U.S.C. §552(b)]

The Act does not authorize withholding information from Congress. [5 U.S.C. §552(d)]