

How to Make a FOIA Request

The Evans Army Community Hospital (EACH) does not require a special form in order to make a FOIA request. Requests must be in writing, either handwritten or typed. Requests may be submitted by fax, courier services, mail, or to each.hipaa@amedd.army.mil although, as discussed immediately below, certain information may be required from a requester.

Your request should be as specific as possible with regard to names, dates, time frames, places, events, subjects, etc. If known, you should include any file designations or descriptions of the records you want. You do not have to give a requested record's name or title, but the more specific you are the more likely it will be that the record you seek can be located. For example, if you have been interviewed by a law enforcement component (such as the Occupational Safety and Health Administration) in connection with a law enforcement investigation and you request a copy of the interview report, your listing of the date and location of the interview, and the name of the interviewing agent and subject of the investigation will be helpful in deciding where to search and in determining which records respond to your request.

In order to protect your privacy, when you make a written request for information about yourself you must provide either a notarized statement or a statement signed under penalty of perjury stating that you are the person you claim to be. You may fulfill this requirement by: (1) having your signature on your request letter witnessed by a notary, or (2) pursuant to 29 U.S.C. 1746 (2) including the following statement just before the signature on your request letter: "I declare under penalty of perjury that the foregoing is true and correct. Executed on [date]." If you request information about yourself and do not provide one of these statements, your request cannot be processed under the Privacy Act. This requirement helps to ensure that private information about you will not be disclosed to anyone else.

A FOIA request can be made for any agency record. This does not mean, however, that EACH will disclose every record sought. There are statutory exemptions that authorize the withholding of information of an appropriately sensitive nature. When EACH withholds information, it ordinarily must specify which exemption of the FOIA permits the withholding. You should be aware that the FOIA does not require agencies to do research for you, to analyze data, to answer questions, or to create records in order to respond to a request.

In those cases when the disclosure officer can not process your request due to the lack of necessary information, you will be contacted and additional information will be requested.

Under certain circumstances, you may be entitled to receive more information under the [Privacy Act of 1974](#) (a separate federal statute) than under the FOIA. Under the FOIA, anyone can request any agency record. Privacy Act requests are more limited and can be made only by U.S. citizens or aliens lawfully admitted for permanent U.S. residence status, who are seeking information about themselves, which is maintained in a system of records by their names or other personal identifiers. Even if a request does not mention the Privacy Act, however, EACH automatically treats requests as being made under both the FOIA and the Privacy Act whenever it is appropriate to do so.

Time for Response

Under the statute, federal agencies are required to respond to a FOIA request within twenty days, excluding Saturdays, Sundays, and legal holidays. This period does not

begin until the request is actually received by the disclosure officer of the component that maintains the records sought. If a component is unable to respond to your request by providing you with the releasable documents by the last business day; it can send you a letter informing you of its decision and send the documents within a reasonable time afterward.

In some instance EACH, may receive many requests, some of these requests may require a line-by-line review of hundreds or even thousands of pages of documents. Although EACH makes every effort to respond to FOIA requests as promptly as possible, in some cases it simply cannot do so within the specified time period.

Under the FOIA, a component may extend the response time for an additional ten business days when: (1) the component needs to collect responsive records from field offices; (2) the request involves a "voluminous" amount of records which must be located, compiled, and reviewed; or (3) the component must consult with another agency which has a substantial interest in the responsive material or with two or more other components of EACH. When such an extension is needed, EACH may notify you of this and offer you the opportunity to modify or limit your request. Alternatively, you may agree to a different timetable for the processing of your request.

Expedited Processing

Under certain conditions you may be entitled to have your request processed on an expedited basis, i.e., within 10 calendar days of the date on which the request was received. However, in an effort to treat all requesters equitably, EACH ordinarily will only expedite a FOIA request in cases in which there is a threat to someone's life or physical safety; the requestor is primarily engaged in disseminating information and has established that the request is urgently needed to inform the public concerning some actual or alleged government activity; or where an individual will suffer the loss of substantial due process rights if the records are not processed on an expedited basis.

Fees

There is no initial fee to file a FOIA request and in many cases no fees are charged for processing. By law, an agency is entitled to charge certain fees, which depend on the category into which you fall.

For the purpose of fees only, the FOIA divides requesters into four categories: (1) commercial requesters may be charged fees for searching for records, reviewing the records, and photocopying them; (2) educational or noncommercial scientific institutions are charged for photocopying, after the first 100 pages; (3) representatives of the news media are charged for photocopying after the first 100 pages; and (4) all other requesters (requesters who do not fall into any of the other three categories) are charged for photocopying after 100 pages and for time spent searching for records in excess of two hours. (EACH charge is based on search and paper requirement for information being sought per page for amount of photocopying.) Actual costs are charged for a format other than paper copy, such as computer tapes, disks and videotapes.

You may include in your request a specific statement limiting the amount that you are willing to pay in fees. If you do not do so, EACH will assume that you are willing to pay fees up to \$25. If we estimate that the fees for processing your request will exceed \$250, we will notify you of the estimate and offer you an opportunity to narrow your request in order to reduce the fees.

Fee Waivers

If you are advised or expect that a fee will be charged, you may request in writing a waiver of those fees if the disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester. The mere fact that you are a non-profit organization or a member of the media does not in and of itself qualify for a fee waiver. In addition, a requester's inability to pay is not a legal basis for granting a fee waiver.

Request Determination

The FOIA provides access to all federal agency records (or portions of those records), except those records that are withheld under nine exemptions and three exclusions (reasons for which an agency may withhold records from a requester). The determination letter will advise you of any information that is being withheld pursuant to one or more of the exemptions. When pages are being withheld in their entirety, the component will specify the volume of the materials denied and/or, if feasible, the location of excluded material.

Appeals

You may file an administrative appeal with the Solicitor of Labor if records responsive to your request are withheld, if you believe that there are records responsive to your request in addition to those records processed by the agency, if your request has not been granted within the time limits set forth in the FOIA, or if your request for expedited processing or a fee waiver is denied. You have ninety (90) days from the denial to file your appeal. Make your appeal in writing and mail it to:

Solicitor of Labor, U.S. Department of Labor, 200 Constitution Ave., NW, Room N-2428, Washington, D.C. 20210, Attn: Freedom of Information Act Appeal

There is no specific form or particular language needed to file an administrative appeal. You should include any initial request number assigned to your request and copies of your initial request and the response of the disclosure officer. Your letter should explain the reasons for your appeal. For example, if you are appealing because you believe there are additional records that have not been located, you should specify why you think such records exist and, if possible, where you believe they might be located.

Judicial Review

You may file a lawsuit in Federal Court if EACH fails to respond to either your initial request or your appeal within the time limits discussed above; or if, after your appeal has been decided, you still believe that EACH has not handled your FOIA request in accordance with the law. You may file your suit in a Federal District Court in any of the following places: (1) where you reside, (2) where you have your principal place of business (if any), (3) in the U.S. District Court for the District of Columbia, or (4) where the agency records are maintained. You have six years to file suit in a District Court from the time your right to sue begins.