

WEST VIRGINIA LOTTERY

FREEDOM OF INFORMATION ACT (FOIA) REQUEST POLICY

The West Virginia Lottery (“WVL”) is committed to ensuring requests pursuant to the West Virginia Freedom of Information Act (FOIA) are timely reviewed and responses are provided in within five business days, as required by W. Va. Code §29B-1-3(d). Since January 1, 2016, all requests are submitted by the WVL to the West Virginia Secretary of State for inclusion in the FOIA database pursuant to W. Va. Code §29B-1-3A.

Procedure for submitting FOIA requests to the West Virginia Lottery:

FOIA requests shall be in writing and sent to the General Counsel. Requests must be addressed to the custodian (listed below) and state with reasonable specificity the information sought. *W. Va. Code §29B-1-3*. All requests to the Lottery for records or information will be treated as FOIA requests and as such, must meet submission guidelines to be logged in the FOIA database and elicit a formal response. The WVL will include this Policy, information on where to send such request and a form to submit requests by email.

While requests by email are preferred, the WVL will also accept requests by United States Mail. Please include the name and contact phone number and/or email with request so that the WVL may contact the requester with any questions. Please submit FOIA requests addressed to the below listed custodian and delivered to the below listed mailing or email addresses:

Custodian:

John A. Myers, Director of West Virginia Lottery

Address:

General Counsel
West Virginia Lottery
900 Pennsylvania Avenue
Charleston, WV 25302

Email: legalgroup@wvlottery.com

*Please include “FOIA Request” in the subject line of any email request.

Records that may be obtained:

Public records that may be obtained include “any writing containing information prepared or received by a public body, the content or context of which, judged by either the content or context, relates to the conduct of the public’s business.” This includes records maintained in an electronic format (“electronic records”). FOIA does not require the WVL to create records or to answer questions. Requests must seek existing records for which the WVL is the custodian with reasonable specificity so that the WVL may easily determine which records are sought. The WVL may ask questions of the requester to clarify any request.

The WVL will not provide records or data it maintains on behalf of any other governmental entity. If the WVL is not the “custodian” of the public records requested, it will make an effort to notify the requester of the possible identity of the actual “custodian.” If the WVL determines preparing and providing a response is unduly burdensome, the WVL will notify the requester and ask the requester to narrow or reduce the scope of the request at issue. If the request remains unduly burdensome, the WVL will issue a written statement explaining the reasons why it is not providing the requested records, in whole or in part.

Electronic records on state computer systems are not viewable on the systems by requesters. The WVL shall print or make electronic records available in an electronic media format (CD, adobe, USB drive, etc.). The WVL will make a reasonable effort to provide the records requested in the preferred format if such format does not result in an undue burden being placed on the WVL.

If a requester asks to inspect available records, a mutually acceptable date and time will be set for inspection at the WVL offices. WVL staff will remain with the records during any inspection. Hours for inspection of records will be 9:00 am through 4:00 pm on state business days. No fees will be assessed for requests to view records, although fees will be associated with the duplication of reviewed records (**NOTE**: The inspection procedure may be impacted by COVID-19 protocols).

The WVL reserves the right to assert any exemption allowed by law and as set forth in W. Va. Code §29B-1-4. If a record requested contains information exempt from disclosure under FOIA, the WVL shall attempt to redact the exempt information. If an entire record is exempt from disclosure, the WVL will deny your request and will state the reason for any denial in its written response to the initial request.

Fees:

There are no fees to submit a FOIA request. However, the WVL does impose fees on certain requests based on the nature of the request and whether the production of the response is burdensome and/or expensive.

The following is a table of fees charged by the WVL for providing records:

Method of Production	Fee
Per-page duplication reimbursement	\$0.20
Per USB flash drive	\$10.00
Per CD charge	\$0.20
Per High Capacity USB flash Drive (1TB)	\$100.00
Postage or Shipping	Actual Cost
List of Lottery Retailer and Agent (regardless of method of production)	\$130.00
List of LVL Retailer, Operator, Service Technician, or any combination (regardless of method of production)	\$130.00

List of Racetrack table games licensees (regardless of method of production)	\$130.00
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Payment:

Requesters will be informed of fees due and payable pursuant to their request prior to production of the records. Fees exceeding \$100 or more must be paid in advance of production. However, all fees totaling under \$100 may be paid after production, unless otherwise determined by the WVL General Counsel. Please make checks payable to the “West Virginia Lottery” and remitted to the above provided address.

Responses:

Within five (5) business days, the WVL will provide the records requested (in whole or in part), deny the request (in whole or in part), and/or inform the requester that the records (in whole or in part) cannot be provided. For calculations regarding when responses are due back to the requester, day one (1) is the state business day following the state business day the request is received.

Relief from Denial:

If the requester believes the WVL has wrongfully denied the request, the requester may institute proceedings for injunctive or declaratory relief or otherwise seek recourse in the Circuit Court of Kanawha County, West Virginia.

Request from Other State Agencies or Law Enforcement:

The WVL will use its best effort to provide records requested by other state entities or law enforcement without charge.