


## FOIL record request

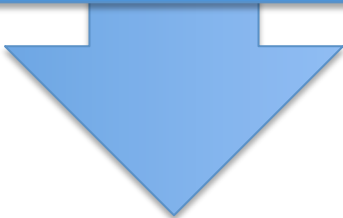
If your school receives a FOIL record request: Requests are deemed “received” on the first business day on which they might be viewed. All timing requirements flow from that date.

Records are presumptively subject to disclosure, subject to the following steps:


**Step 1:** Evaluate whether the request “reasonably describes” the records sought. See FAQ 16.

- **If No:** Within **5 business days**, the school must inform the applicant that the request or portion of the request does not reasonably describe the records sought and give direction, to the extent possible, that would enable that person to request records reasonably described. See FAQ 17.
  - **If Yes:** go on to Step 2.
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**Step 2:** Subject to Step 3 below (exemptions), the school must, within **5 business days**, take **up to five possible actions**:

- **Action 1:** Grant the request by providing access to the records requested in whole or in part.
  - **Action 2:** If the school cannot immediately grant the request, then it must acknowledge receipt of the request in writing and provide an **approximate date** by which either some or all records will be made available or by which the request will be denied. The approximate date should be **within 20 business days** of the sending of the acknowledgment of the request. See FAQs 19-20.
  - **Action 3:** In cases where the **request is exceedingly large or complex**, or where the records are not readily accessible and the request cannot be fulfilled or denied within the additional twenty business day period described in Action 2 above, the school must still acknowledge receipt of the request in writing and **provide a reasonable “date certain” for fulfilling the request**. See FAQs 21-23.
  - **Action 4:** In case of a **failure to locate records**, the records access officer must **certify** that either the school is not the custodian of such records or the records of which the school is a custodian cannot be found after a diligent search. See FAQ 19.
  - **Action 5:** Finally, the school may, after acknowledging receipt of the request in writing, deny access to the records in whole or in part. The written denial must inform the party making the request of his/her right, **within 30 calendar days**, to appeal to the body or person serving as records appeals officer, which must be identified by name, title, business address and business telephone number. See FAQ 37. (If there is an appeal, see Step 5 below.)
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**Step 3:** Prior to granting or denying any request, determine whether any requested records are exempt from disclosure. See FAQs 27-35. Exemptions can be complicated and determining whether they apply might at least include, but are not limited to, any of the follow 4 possible actions:

- **Action 1:** Determine whether **any state or federal laws exempt disclosure** in whole or in part. See FAQ 28. The most prominent example is the Federal Family Education Rights and Privacy Act (FERPA).
  - **Action 2:** Determine whether disclosure in whole or in part would constitute an **“unwarranted invasion of privacy”** under FOIL. See FAQs 29-31.
  - **Action 3:** Determine whether any of the records are **“inter-agency or intra-agency materials”** that would be exempt in whole or in part under FOIL. See FAQs 32-34.
  - **Action 4:** Determine whether the school can meet its presumptive disclosure obligation by **producing either portions of records, or records in redacted form**. See, e.g., FAQ 29.
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**Step 4:** Determine whether the school may charge any **fees** in relation to the disclosure of the records. See FAQs 24-25.



**Step 5:** The requesting party has 30 days from a denial of a request (in whole or in part) to file an appeal to the school’s “records appeal officer.” See FAQ 37. If such an appeal is filed, the school **must take the following 2 actions:**

- **Action 1:** Upon receipt of the appeal, the records appeals officer must transmit a copy to the New York State Committee on Open Government.
- **Action 2:** The records appeals officer is required to respond to the appeal **within 10 business days of the receipt**, by either granting access to the records or fully explaining in writing the reasons for further denial. Similarly, the records appeals officer must also transmit its determination to the Committee on Open Government.