

COUNCIL OF THE DISTRICT OF COLUMBIA  
NOTICE

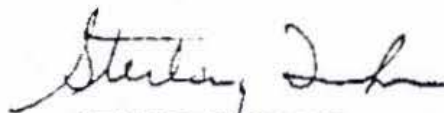
March 31, 1977

D.C. LAW 1-96

"Freedom of Information Act of 1976"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act (PL 93-198), the Act, the Council of the District of Columbia adopted Bill No. 1-119 on first and second readings September 15, 1976, and October 12, 1976, respectively. Following the signature of the Mayor on November 19, 1976, this legislation was assigned Act No. 1-178, published in the December 10, 1976, edition of the D.C. Register, and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired and, therefore, cites the following legislation as D. C. Law 1-96, effective March 25, 1977.



STERLING TUCKER  
Chairman of the Council

(Ref. 23, DCReg. 3744, December 10, 1976)

AN ACT

1-178

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 19, 1976

To create a Freedom of Information Act; to create rights;  
and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,  
That this act may be cited as the "Freedom of Information  
Act of 1976".

Sec. 2. The District of Columbia Administrative  
Procedure Act (D.C. Code, sec. 1-1501 et seq.) as amended,  
is further amended by adding to the end thereof the  
following:

\*TITLE II FREEDOM OF INFORMATION

\*PUBLIC POLICY

\*Sec. 201. Generally the public policy of the District  
of Columbia is that all persons are entitled to full and  
complete information regarding the affairs of government and  
the official acts of those who represent them as public  
officials and employees. To that end, provisions of this

act shall be construed with the view toward expansion of public access and the minimization of costs and time delays to persons requesting information.

\* "RIGHT OF ACCESS TO PUBLIC RECORDS; ALLOWABLE COSTS;

"TIME LIMITS

"Sec. 202. (a) Any person has a right to inspect, and at his or her discretion, to copy any public record of the Mayor or an agency, except as otherwise expressly provided by section 204 of this title, in accordance with reasonable rules that shall be issued by the Mayor or an agency after notice and comment, concerning the time and place of access.

"(b) The Mayor or an agency may establish and collect fees not to exceed the actual cost of searching for or making copies of records, but in no instance shall the total fee for searching exceed 10 dollars for each request. For purposes of this subsection "request" means a single demand for any number of documents made at one time to an individual agency. Documents may be furnished without charge or at a reduced charge where the Mayor or agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be

considered as primarily benefiting the general public.

Notwithstanding the foregoing, fees shall not be charged for examination and review by the Mayor or an agency to determine if such documents are subject to disclosure.

"(c) The Mayor or an agency, upon request reasonably describing any public record, shall within 10 days (except Saturdays, Sundays, and legal public holidays) of the receipt of any such request either make the requested public record accessible or notify the person making such request of its determination not to make the requested public record or any part thereof accessible and the reasons therefor.

"(d) In unusual circumstances, the time limit prescribed in subsection (c) of this section may be extended by written notice to the person making such request setting forth the reasons for extension and expected date for determination. Such extension shall not exceed 10 days (except Saturdays, Sundays and legal public holidays). For purposes of this subsection, and only to the extent necessary for processing of the particular request, 'unusual circumstances' are limited to:

"(1) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

"(2) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

"(e) Any failure on the part of the Mayor or an agency to comply with a request under subsection (a) of this section within the time provisions of subsections (c) and (d) of this section shall be deemed a denial of the request, and the person making such request shall be deemed to have exhausted his administrative remedies with respect to such request, unless such person chooses to petition the Mayor pursuant to section 207 of this title to review the deemed denial of the request.

"LETTERS OF DENIAL

"Sec. 203. (a) Denial by the Mayor or an agency of a request for any public record shall contain at least the following:

"(1) the specific reasons for the denial, including citations to the particular exemption(s) under section 204 of this title relied on as authority for the denial;

"(2) the name(s) of the public official(s) or employee(s) responsible for the decision to deny the request; and

"(3) notification to the requester of any administrative or judicial right to appeal under section 207 of this title.

"(b) The Mayor and each agency of the District of Columbia shall maintain a file of all letters of denial of requests for public records. This file shall be made available to any person on request for purposes of inspection and/or copying.

"EXEMPTIONS

"Sec. 204. (a) The following matters may be exempt from disclosure under the provisions of this title:

"(1) Trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained;

"(2) Information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

"(3) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would-

"(A) interfere with enforcement proceedings,

"(B) deprive a person of a right to a fair trial or an impartial adjudication,

"(C) constitute an unwarranted invasion of personal privacy,

"(D) disclose the identity of a confidential source and, in the case of a record compiled by a

law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

"(E) disclose investigative techniques and procedures not generally known outside the government,

"(F) endanger the life or physical safety of law enforcement personnel;

"(4) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

"(5) Test questions and answers to be used in future license, employment, or academic examinations, but not previously administered examinations or answers to questions thereon;

"(6) Information specifically exempted from disclosure by statute (other than this section), provided that such statute-



"(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

"(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld ; and

"(7) Information specifically authorized by Federal law under criteria established by a Presidential Executive order to be kept secret in the interest of national defense or foreign policy which is in fact properly classified pursuant to such Executive order.

"(b) Any reasonably segregable portion of a public record shall be provided to any person requesting such record after deletion of those portions which may be withheld from disclosure under subsection (a) of this section.

"(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from the Council of the District of Columbia. This section shall not

operate to permit non-disclosure of information of which disclosure is authorized or mandated by other law.

"RECORDING OF FINAL VOTES

"Sec. 205. Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in each proceeding of that agency.

"INFORMATION WHICH MUST BE MADE PUBLIC

"Sec. 206. Without limiting the meaning of other sections of this title, the following categories of information are specifically made public information:

"(a) the names, salaries, title, and dates of employment of all employees and officers of the Mayor and an agency;

"(b) administrative staff manuals and instructions to staff that affect a member of the public;

"(c) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(d) those statements of policy and interpretations of policy, acts, and rules which have been adopted by the Mayor or an agency;

"(e) correspondence and materials referred to therein, by and with the Mayor or an agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or states an opinion upon, or is asked to determine or state an opinion upon, the rights of the District, the public, or any private party;

"(f) information in or taken from any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by public bodies; and

"(g) the minutes of all proceedings of all agencies.

"ADMINISTRATIVE APPEALS AND ENFORCEMENT

"Sec. 207. (a) Any person denied the right to inspect a public record of a public body may petition the Mayor to review the public record to determine whether it may be withheld from public inspection. Such determination shall be made in writing with a statement of reasons therefor in

writing within 10 days (excluding Saturdays, Sundays, and legal holidays) of the submission of the petition.

"(1) If the Mayor denies the petition or does not make a determination within the time limits provided in this subsection, or if a person is deemed to have exhausted his or her administrative remedies pursuant to subsection (e) of section 202, the person seeking disclosure may institute proceedings for injunctive or declaratory relief in the Superior Court for the District of Columbia.

"(2) If the Mayor decides that the public record may not be withheld, he shall order the public body to disclose the record immediately. If the public body continues to withhold the record, the person seeking disclosure may bring suit in the Superior Court for the District of Columbia to enjoin the public body from withholding the record and to compel the production of the requested record. "(b) In any suit filed under subsection (a) of this section, the Superior Court for the District of Columbia may enjoin the public body from withholding records and order the production of any

records improperly withheld from the person seeking disclosure. The burden is on the Mayor or the agency to sustain its action. In such cases the court shall determine the matter de novo, and may examine the contents of such records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in section 204 of this title.

"(c) If a person seeking the right to inspect or to receive a copy of a public record prevails in whole or in part in such suit, he or she may be awarded reasonable attorney fees and other costs of litigation.

#### "OVERSIGHT

"Sec. 208. On or before the 30th day of June of each calendar year, the Mayor shall compile and submit to the Council of the District of Columbia a report covering the public-record-disclosure activities of each agency and of Executive Branch as a whole during the preceeding calendar year. The report shall include:

"(1) The number of determinations made by each agency not to comply with requests for records made to

such agency under this title and the reasons for each such determination;

"(2) The number of appeals made by persons under Section 207(a) of this title, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

"(3) The names and titles or positions of each person responsible for the denial of records requested under this title, and the number of instances of participation for each such person;

"(4) A copy of the fee schedule and the total amount of fees collected by each agency for making records available under this title;

"(5) such other information as indicates efforts to administer fully this title; and

"(6) For the prior calendar year, a listing of the total number of cases arising under this title, the total number of cases in which a request was denied in whole or in part, the total number of times in which each exemption provided under section 204 of this title was cited as a reason for denial of a request, and the

total amount of fees collected under section 202(b) of this act. Such report shall also include a description of the efforts undertaken by the Mayor to encourage agency compliance with this title.

"DEFINITION

"Sec. 209. For purposes of this title, the terms "Mayor", "Council", "District", "agency", "rule", "rulemaking", "person", "party", "order", "relief", "proceeding", "public record", and "adjudication" shall have the meaning as provided in section 102 of Title I of this Act."

Sec. 3. The District of Columbia Administrative Procedure Act (D.C. Code, sec. 1-1501 et seq.), as amended, is further amended by-

(a) renumbering sections 2 through 12 thereof as sections 101 through 111, respectively;

(b) inserting in the title heading "Title I Administrative Procedure" between section 1 of such Act and section 101 (as renumbered):

(c) striking out "Act" wherever it appears in sections 101 through 111 (as renumbered) and inserting in lieu thereof "title";

(d) by adding to the end of section 102 (as renumbered) of such Act the following:

"(18) the term 'public record' includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by the Mayor and agencies.

"(19) the term 'adjudication' means the agency process, other than rulemaking, for the formulation, issuance, and enforcement of an order."

(e) by striking "section 7" in section 105 (as renumbered) of such Act and inserting in lieu thereof "section 106".



REPEALER

Sec. 4. Mayor's Order 76-109, dated May 4, 1976, is hereby repealed.

EFFECTIVE DATE

Sec. 5. This act shall take effect pursuant to the provisions of section 602(c) (1) of the District of Columbia Self-Government and Governmental Reorganization Act.

Considered in Council September 15, 1976

First Vote September 15, 1976

**RECORD OF COUNCIL VOTE**

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
TUCKER	X				DIXON	X				SPAULDING				X
MOORE, D.				X	HARDY	X				WILSON	X			
BARRY				X	HOBSON	X				WINTER	X			
CLARKE	X				MOORE, J.	X								
COATES				X	SHACKLETON	X								

X—Indicates Vote    A. B.—Absent    N. V.—Not Voting

\_\_\_\_\_  
(Secretary of the Council)

Final Vote in Council October 12, 1976

**RECORD OF COUNCIL VOTE**

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
TUCKER	X				DIXON	X				SPAULDING	X			
MOORE, D.	X				HARDY				X	WILSON	X			
BARRY	X				HOBSON	X				WINTER	X			
CLARKE	X				MOORE, J.	X								
COATES	X				SHACKLETON	X								

X—Indicates Vote    A. B.—Absent    N. V.—Not Voting

\_\_\_\_\_  
(Secretary of the Council)

Presented to the Mayor NOV 5 1976

\_\_\_\_\_  
(Secretary of the Council)

Mayor's Action:

Approved: \_\_\_\_\_  
Disapproved: \_\_\_\_\_

\_\_\_\_\_  
(Mayor's Signature)

acted without Mayor's Signature \_\_\_\_\_

\_\_\_\_\_  
(Secretary of the Council)