

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
FREEDOM OF INFORMATION LAW POLICY**

- 1. Purpose and Scope**
- 2. Designation of Records Access Officer**
- 3. Location**
- 4. Hours for Public Inspection**
- 5. Requests for Public Access to Records**
- 6. Subject Matter List**
- 7. Denial of Access to Records**
- 8. Fees**
- 9. Public Notice**
- 10. Severability**

Section 1 Purpose and Scope

- (a) The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy of confidentiality.
- (b) This policy sets forth information concerning the procedures by which records may be obtained from the Hudson River-Black River Regulating District.
- (c) Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.
- (d) Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

Section 2 Designation of Records Access Officer

- (a) The Hudson River-Black River Regulating District is responsible for insuring compliance with the Freedom of Information Law and designates the following person(s) as Records Access Officer(s):

Administrative Assistant - FOIL
Hudson River-Black River Regulating District
350 Northern Boulevard
Albany, New York 12204

- (b) The Records Access Officer is responsible for insuring appropriate agency response to public requests for access to Regulating District records. The designation of a Records Access Officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

The Records Access Officer shall insure that agency personnel:

- (1) Maintain an up-to-date subject matter list.
- (2) Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.
- (3) Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.
- (4) Upon locating the records, take one of the following actions:
 - (i) make records available for inspection; or,
 - (ii) deny access to the records in whole or in part and explain in writing the reasons therefore.
- (5) Upon request for copies of records:
 - (i) make a copy available upon payment of established fees, in accordance with Section 8; or,
 - (ii) permit the requester to copy those records if they have a portable copying device.
- (6) Upon request, certify that a record is a true copy; and
- (7) Upon failure to locate records, certify that;
 - (i) Hudson River-Black River Regulating District is not the custodian for such records, or
 - (ii) the records of which Hudson River-Black River Regulating District is a custodian cannot be found after diligent search.

Section 3 Location

Depending upon the location of the requested record, records shall be available for public inspection at:

Hudson River-Black River Regulating District
350 Northern Boulevard
Albany, New York 12207

Hudson River-Black River Regulating District
Sacandaga Field Office
737 Bunker Hill Road
Mayfield, New York 12117

Hudson River-Black River Regulating District
Black River Area Office
145 Clinton Street
Suite 102
Watertown, New York 13601

Section 4 Hours for Public Inspection

Persons requesting records shall make an appointment to inspect records as follows:

- (a) Upon reasonable notice, the Hudson River-Black River Regulating District shall accept requests for public access to records and produce records for inspection during regular business hours: Monday through Friday 8:30 a.m. to 4:00 p.m.
- (b) Contact the Records Access Officer to determine the location of the requested record among the three (3) Hudson River-Black River Regulating District offices.

Section 5 Requests for Public Access to Records

- (a) All requests for records pursuant to FOIL shall be made to the Regulating District in writing. A written request, made via U.S. Mail, hand delivery to a Regulating District office listed in section 3 or electronically via e-mail shall be deemed to satisfy this requirement. If the documents requested contain names and addresses the Regulating District reserves the right to (i) require, before access is granted to the document, the requesting party to file an affidavit with the Regulating District stating that the document will not be used for commercial or fundraising purposes; or (ii) redact names and addresses contained in said document before access
- (b) If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.
- (c) If a request has been submitted electronically via email and the requested records are maintained in an electronic format by the Regulating District and are not otherwise exempted from disclosure by FOIL, the Regulating District shall provide the requested documents, in the electronic format in which it is maintained, to the requesting party.
- (d) If a request has been submitted electronically via email and the requested records are not maintained by the Regulating District in an electronic format and if converting the requested documents to an electronic format does not require the performance of any

additional tasks to create an electronic format as opposed to a paper copy, the requested records shall be provided in an electronic format.

- (e) A response shall be given within five business days of receipt of a request by:
 - (1) informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;
 - (2) granting or denying access to records in whole or in part;
 - (3) acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than twenty business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or
 - (4) if the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within twenty business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.
- (f) In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.
- (g) A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:
 - (1) fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;
 - (2) acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;

- (3) furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;
- (4) fails to respond to a request within a reasonable time after the approximate date given or within twenty business days after the date of the acknowledgment of the receipt of a request;
- (5) determines to grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;
- (6) does not grant a request in whole or in part within twenty business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or
- (7) responds to a request, stating that more than twenty business days is needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.

Section 6 Subject Matter List

- (a) The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to subdivision two of Section eighty-seven of the Public Officers Law.
- (b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- (c) The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

Section 7 Denial of Access to Records

- (a) The Hudson River–Black River Regulating District has designated the Regulating District’s General Counsel as the FOIL Appeals Officer to hear appeals regarding denial of access to records under the Freedom of Information Law.
- (b) Denial of access to records shall be in writing stating the reason therefore and advising the requester of the right to appeal to:

General Counsel
Hudson-River Black River Regulating District
350 Northern Boulevard
Albany, New York 12204
(518) 465-3491

- (c) If requested records are not provided promptly, as required in Section 5 of this policy, such failure shall also be deemed a denial of access.
- (d) Any person denied access to records may appeal within thirty days of a denial.
- (e) The time for deciding an appeal shall commence upon receipt by the FOIL Appeals Officer of a written appeal identifying:
 - (1) the date and location of requests for records;
 - (2) a description, to the extent possible, of the records that were denied; and
 - (3) the name and return address of the person denied access.
- (f) The FOIL Appeals Officer's failure to determine an appeal within ten business days of his or her receipt of the appeal, by granting access to the records sought or providing a written determination fully explaining the reasons for further denial, shall constitute a denial of the appeal.
- (g) The FOIL Appeals Officer shall transmit a copy of each appeal to the Committee on Open Government upon receipt of said appeal. Such copies shall be addressed to:

Committee on Open Government
Department of State
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
- (h) The FOIL Appeals Officer shall inform the appellant and the Committee on Open Government of his or her determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth subdivision (g) of this section.

Section 8 Fees

- (a) There shall be no fee charged for:
 - (1) inspection of records;
 - (2) search for records; or

- (3) any certification pursuant to this part.
- (b) The Hudson River-Black River Regulating District Board may waive the fee for copying particular records by a majority vote at a regular or special meeting. Such waiver shall entitle each individual or entity to no more than one copy of such record free of charge. Standard fees will apply for the provision of additional copies.
- (c) Fees for copies shall be charged accordingly:
 - (1) records, whether copied, printed, or provided in a computer format, not in excess of nine inches by fourteen inches shall be provided for not more than twenty-five cents per page unless the actual reproduction cost is greater or a different fee is otherwise prescribed by statute;
 - (2) in determining the actual cost of reproducing a record, the Regulating District shall refer to Public Officers Law §87(1)(c);
 - (3) if a request for records has been filed in computer format and such records are not maintained in a computer format and the Regulating District copies such records into a computer format to send to the requesting party, the copying fee pursuant to subparagraph (1) above shall be imposed;
 - (4) fees for postage for delivery of requested records shall be charged, unless arrangements are made to pick up the records from one of the Hudson River-Black River Regulating District's offices;
 - (5) the Regulating District may require advance payment, before copies are made, or delivered, where the aggregate fee for a request, or group of requests, exceeds a nominal amount.

Section 9 Public Notice

The Regulating District shall post in a conspicuous location at each office where records are kept, and upon the Regulating District's website, a notice containing the title, business address and phone number of the Records Access Officer and FOIL Appeals Officer and the location where records shall be made available for inspection and copying.

Section 10 Severability

If any provision of this policy or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this policy or the application thereof to other persons and circumstances.