

CLARENCE FIRE DISTRICT NO. 1

FOIL POLICY

POLICY STATEMENT

It is the policy of the Clarence Fire District No. 1 ("Fire District") to comply with the requirements of Article 6 of the Public Officers Law, the Freedom of Information Law ("FOIL"). The Fire District hereby adopts this Policy as and for the rules and regulations required by Public Officers Law section 87(1) and otherwise.

PURPOSE

It is the intent of this Policy to enhance access to public records and compliance with the Freedom of Information Law of the State of New York.

DESIGNATION OF RECORDS ACCESS OFFICER

The Board of Fire Commissioners of the Fire District ("Board") hereby designates the Fire District Secretary both the Records Management Officer of the Fire District pursuant to Arts and Cultural Affairs Law section 57.19 and the Records Access Officer of the Fire District pursuant to 12 NYCRR 1401.2.

The Records Access Officer shall have such duties as described in 12 NYCRR 1401.2(b) including, but not limited to the following, together with such other duties as may be assigned by the Board:

- (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 sought involves substantial effort, so that Fire District personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of the records requested.
- (4) Upon locating the records, take one of the following actions:
 - (i) make records promptly available for inspection; or
 - (ii) deny access to the records in whole or in part and explain in writing the reasons therefor.
- (5) Upon request for copies of records:
 - (i) make a copy available upon payment of established fees pursuant to this Policy; or
 - (ii) permit the requester to copy those records. Fire District copying equipment is not permitted to be used by non-Fire District personnel. A requester may use a cell phone or other hand-held device to copy or scan documents.
- (6) Upon request, certify that a record is a true copy.

- (7) Upon failure to locate records, certify that:
 - (i) the Fire District is not the custodian for such records; or
 - (ii) the records of which the Fire District is a custodian cannot be found after diligent search.

SUBJECT MATTER LIST

The Record Retention and Disposition Schedule MU-1, Public Safety section, as it applies to Fire Districts, and as may be supplemented and amended from time to time by the Board of Fire Commissioners, shall constitute the Fire District's subject matter list.

LOCATION

Fire District records shall be available for public inspection and copying at the office of the Fire District Secretary at 10355 Main Street, Clarence, NY 14031.

All Fire District records may not be maintained or stored at such location but only that they are made viewable at that location.

This Policy does not require that all requests for inspection of records be complied with upon submission, but as dictated by this Policy.

HOURS FOR PUBLIC INSPECTION OR ACCESS TO VIEWING RECORDS

Fire District records shall be available for public inspection and copying at the office of the Fire District Secretary during hours publicly designated by the Fire District Secretary.

The Fire District is an emergency response agency and does not have hours that it is regularly open for business. However, the Fire District Secretary shall accept requests for public access to records and produce records during all hours the Fire District Secretary is present at the Fire District offices for the conduct of Fire District business apart from emergency responses.

A person may request an appointment with the Fire District Secretary to inspect and copy records. Such person may contact the Fire District Secretary at 10355 Main Street, Clarence, NY 14031 or (716) 759-8842 to arrange an appointment.

RESPONSES TO REQUESTS FOR RECORDS

The Fire District requires that all requests for records be made in writing.¹

The Records Access Officer or the Officer's designee shall respond to a request within five business days of the 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;

¹ Pursuant to 21 NYCRR § 1401.5(a)

- (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 acknowledgment, or if it is known that circumstances prevent disclosure within twenty business days from the date of such acknowledgement, providing a statement in writing stating 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 acknowledgement, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgement stating 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.

In determining a reasonable time for granting or denying a request under the circumstances of a request, the Records Access Officer 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 Fire District, and similar factors that bear on the Fire District's ability to grant access to records promptly and within a reasonable time.

DENIAL OF ACCESS TO RECORDS

Denial of access to any Fire District records shall be in writing made by the Record Access Officer or the Officer's designee, stating the reason therefor and advising the person denied access to their right to appeal.

All appeals shall be made in writing to the Chair of the Board of Fire Commissioners at 10355 Main Street, Clarence, NY 14031 within thirty days of any denial.

Denials shall be sent by regular mail to the address provided by the requester and shall be deemed received when mailed. The appeals period shall commence on the date of mailing of the denial when such is placed in a postage paid envelope addressed to the requester and deposited in a US Postal Service mailbox.

The Chair of the Board of Fire Commissioners or the Chair's designee shall determine appeals regarding denial of access to records under FOIL.

The Chair shall cause a copy of any appeal, upon receipt, to be sent to the "Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Ave., Suite 650, Albany, N.Y. 12231."

The appeal shall be determined within ten business days upon receipt of a written appeal identifying and which shall contain:

- (1) the date and location of the request for records;
- (2) a description, to the extent possible, of the records that were denied; and
- (3) the name and return postal address of the requester/appellant.

An appeal may be determined by either granting access to the records sought or fully explaining the reasons for further denial in writing.

The Chair of the Board of Fire Commissioners or the Chair's designee shall inform the requester/appellant and the Committee on Open Government of the determination in writing within ten business days of the Chair's receipt of the appeal.

FEES

Fees for records shall be charged as provided in 21 NYCRR 1401.8 excepting however, that records not exceeding 9 by 14 inches the fee shall be 25 cents per page for photocopies.

All fees for copying or reproducing a record shall be paid in advance of the preparation of such copy. No records shall be provided unless such fees have been paid. All fees shall be paid in cash, official bank draft, certified check or money order payable to the Fire District.

In the event that any requester, individually or on behalf of an organization or other person, has failed to pay fees for any request for records, such person(s) or organization shall be prohibited from any further request under FOIL until such prior request fees have been paid.²

PUBLIC NOTICE

A notice containing the title and business address of the Records Access Officer and appeals person and the location where records can be seen or copies obtained shall be posted in a conspicuous location and/or by publication in a newspaper of general circulation within the Fire District and shall comply substantially with the following:

PUBLIC NOTICE YOU HAVE A RIGHT TO SEE PUBLIC RECORDS

The Freedom of Information Law gives you access to many public records.

The Clarence Fire District No. 1 has adopted a policy governing where records shall be made available for inspection and copying. The Records Access Officer for the Fire District is the Fire District Secretary, 10355 Main Street, Clarence, NY 14031. Fire District records may be examined during designated hours or by appointment at the Clarence Fire District No. 1, 10355 Main Street, Clarence, NY 14031.

Any person denied access to a record has a right to appeal, which appeal shall directed addressed to: Chair, Clarence Fire District No. 1, 10355 Main Street, Clarence, NY 14031 and marked "FOIL Appeal" on the outside of the envelope.

² Committee on Open Gov't FOIL-AO-9659; FOIL-AO-16638.

NO REQUIREMENT TO CREATE RECORDS

The official form of all Fire District documents is in paper format. Nothing requires the Fire District to prepare any record not possessed or maintained by the Fire District. If the document does not exist, the Fire District will notify the person making the request that the Fire District does not maintain the document.

REVIEW AND AMENDMENT

This Policy shall be reviewed annually by the Board of Fire Commissioners.

The Board of Fire Commissioners may amend this Policy from time to time in accordance with law.

**This policy is adopted August 26, 2020.
By order of the Board of Fire Commissioners, Clarence Fire District No. 1**