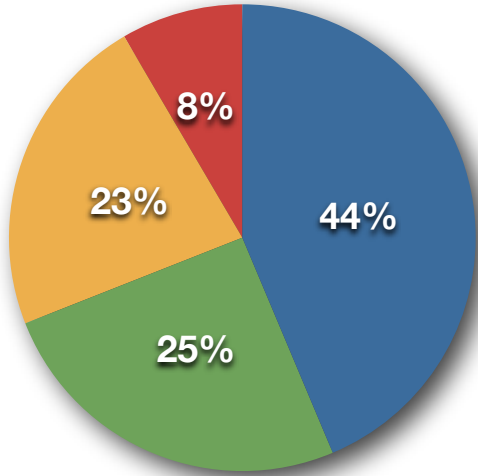




Choose the description that best fits your interaction with FOIA (choose up to 2)

- As a citizen/journalist/business records requester
- As a government employee who deals directly or indirectly with FOIA requests
- As a citizen/journalist who attends government meetings
- As a member of a public body



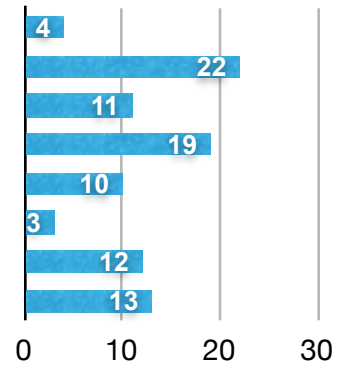
Other:

- Publisher of EssexSunshine.Org Blog
- As a former government employee who dealt w/FOIA
- attorney
- Former elected official. Advocate for good government

In which areas related to the procedures for making requests for records under FOIA do you encounter the biggest problems (choose up to 3)

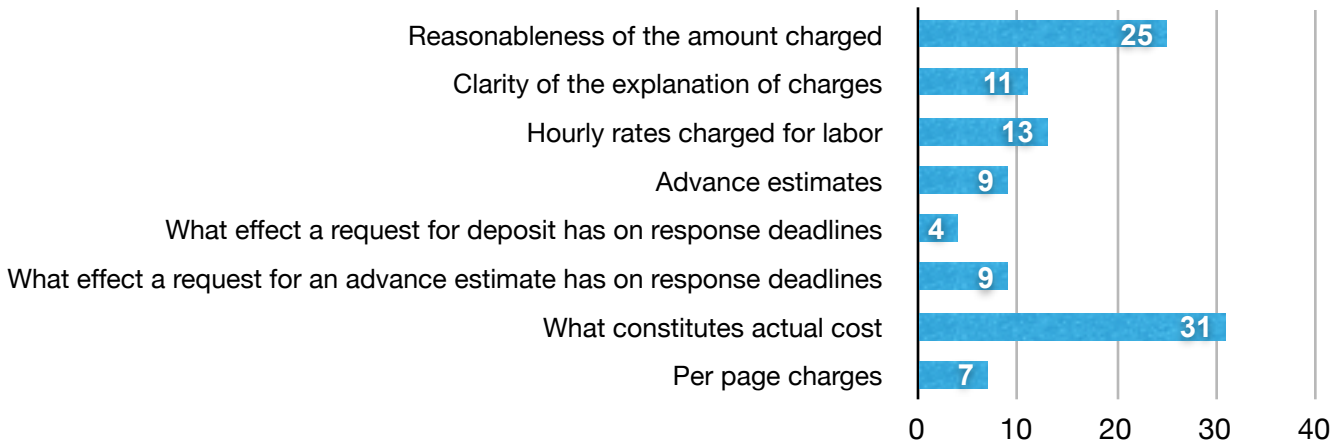


- Requirements for the proper way to make a request
- Identifying the records requested
- Requirement that denials/redactions cite in writing the applicable exemption or other law
- Clarity of reasons behind denial
- Timetables and deadlines for initial request (5 working days)
- Timetables & deadlines for extension (additional 7 working days if requested within first 5)
- The medium of the records requested (e.g., electronic, specific program/format)
- Creation of a new record

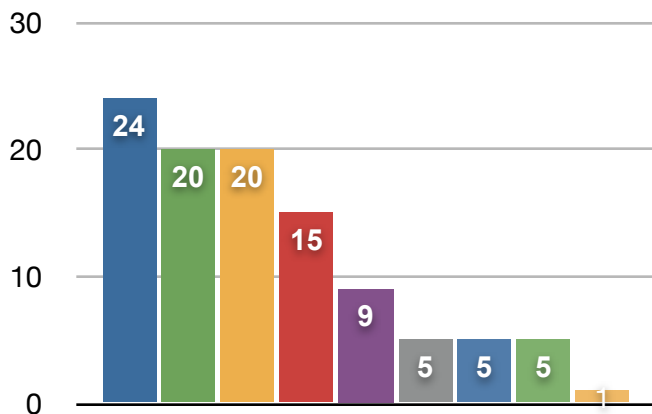


* See Appendix A for answers added by respondents for this and the following questions

In which areas related to the fees charged for making requests for records under FOIA do you encounter the biggest problems (choose up to 3)



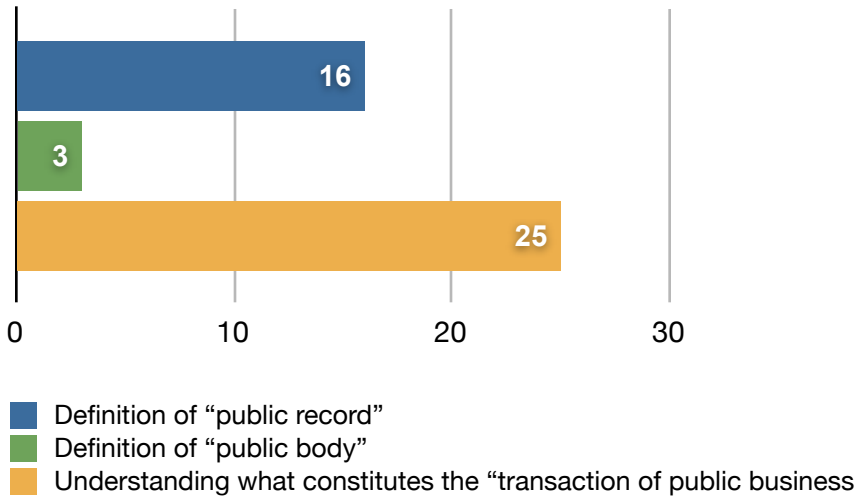
In which areas related to FOIA's records exemptions do you encounter the biggest problems (choose up to 3)



- Use of discretion in denying/disclosing records that could be exempt
- Personnel exemption
- Working papers/correspondence exemption
- Law enforcement records
- Attorney/client communication exemption
- Attorney work product exemption
- Trade secrets exemptions
- Administrative investigation exemptions
- Scholastic records exemption

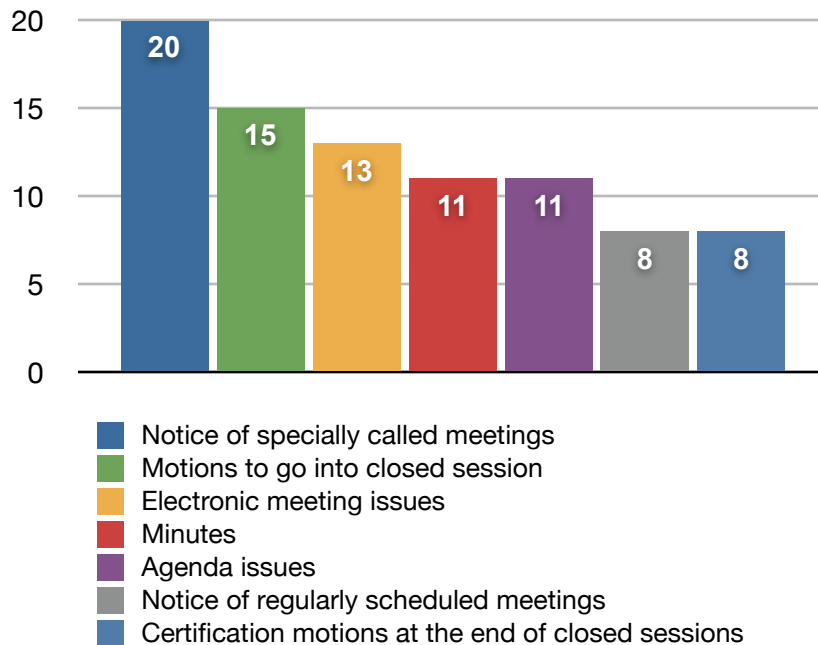
Q5

Select the top definitional problem you encounter under FOIA (choose 1)

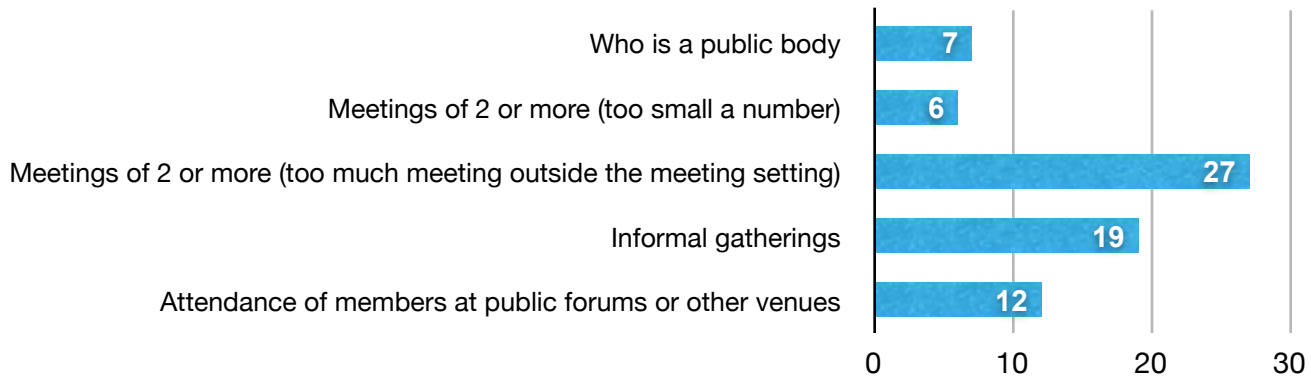


In which areas related to the procedures required before, during and after public meetings do you encounter the biggest problems (choose up to 3)

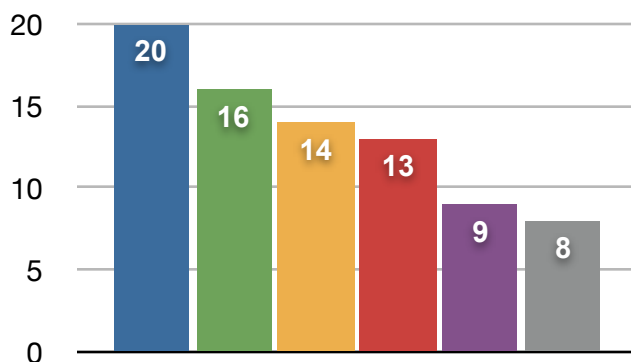
Q6



Select the top definitional problem you encounter under FOIA (choose up to 2)



Which areas related to FOIA's closed meetings exemptions do you encounter the biggest problems (choose up to 3)



- Use of discretion in choosing to stay in public/go into closed session
- Personnel exemption
- Economic development exemption
- Real estate purchase exemption
- Legal matters exemption
- Contract negotiations exemption

SUGGESTIONS FOR IMPROVING FOIA - 1

Emphasize "may" is not a requirement	forgetting about the FOIA altogether	Eliminate "search" charges, which have been extensively subject to abuse in this locality.
Require audio/video recording of all public meetings	Council members understand what a FOIA request is all about.	Eliminate FOIA exemptions re: economic development, sale of public resources.
Reduce Exemptions	Mandatory education for all county employees in FOIA	Make organizations soliciting, receiving public monies (from govt as well as from individual donors), subject to FOIA., such as "foundations" attached to universities in Virginia.
Ability of small groups to elected leaders (2) to meet with project applicants outside public view	requirement that there be an explanation as to why a particular type of meeting is ALWAYS exempt when non-personnel	Remove General Assembly exemptions
Eliminate exemption on public employee records, particularly law enforcement.	penalty for failing to respond adequately to a legitimate FOIA request	Increase penalties for a violation
Require public bodies to set standard FOIA fees. We have one locality that uses various people to review email FOIA requests. In one case that employee had a salary above \$60/hour, which was charged to review his/her own emails.	Eliminate charges for simple requests, i.e. requests that take less than one hour of staff time to fulfill.	As part of swearing in elected officials, have them attest they have been advised of their responsibilities to understand and follow the FOIA.
Any documents provided to public officials should be available to the public online at the same time they are available to the public officials.	Elimination of economic development exemption.	Open law enforcement records so public has ability to hold officers and departments accountable.
All e-mail correspondence of public officials should be sent to a repository available to the public at the instant the e-mails are sent between public officials.	Clearer definition of "working papers."	Lower threshold of the percentage of public funding going to a private organization, making it subject to FOIA, from 67% to 60%.
The public should not have to pay anything for public records that belong to the public. Government workers are only the custodians of the records, not the owners of them. The time needed by public officials to provide requested records should be considered part of the workload and job description and governmental budget and not subject to additional charges to the requester.	Develop an FOIA fairness organization that would take the ball on a few actions each year and drive the issue to conclusion.	Eliminate 'citizen of state' requirement.
Stiff penalty for state employees who use personal e-mail systems for public business.	ensure public agencies know FOIA is serious. too many offices make things up.	Allow news media to attend closed meetings but not report on anything there unless it was a violation of FOIA or can be verified independently outside closed meeting.
Reduce fees agencies use as a barrier.	clarify exemptions so agencies/offices are not making them up either.	Give the law real teeth so that violations result in serious penalties both for public bodies and individual officials.
Not to use face book as government business - not the internet	training, training, training	Eliminate many of the exemptions.

SUGGESTIONS FOR IMPROVING FOIA - 2

Make Virginia more transparent. Local boards hide behind closed doors to discuss items they view as potentially sensitive that aren't relative to the reasons they are in closed session.	greater clarity of what records should be made available	I would rewrite the text of the law into plain text. I would make it as understandable as possible. Although I have read it plenty of time, I still have problems now and again, in understanding exactly what it meant. Lack of understanding is the biggest hurdle on both sides.
Further clarity on when I can or must release a document.	less opportunities for secrecy in meetings and between elected officials.	Electronic Meeting via telephone or other electronic means; serial meetings
There currently is no exemption for a "draft" document. Theoretically, a state agency must release reports, reviews, audits, etc. before they are even complete or submitted/ distributed for internal discussion and review.	Exempt draft documents.	Online Filing should be required
Limit attorney-client communication to matter covered by closed meeting exemptions.	Clarify when data must be pulled from a data base.	Better enforcement
County government employees, elected officials on school board/board of supervisors are not well informed, do not know enough about it.	Eliminate in-state requirement for requestors	More education regarding FOIA of those subject to it.
Extending the 7-day extension for complex or complicated requests. There are occasions where a request is labor intensive and requires more time to compile the requested information.	Clearly define limits on charges so no abuse results from "ignorant" local personnel.	Assurance that work papers (draft notes) are made available.
Better clarification of the 5-day rule and 7-day extension. Ensuring the agency is aware that it should send the initial 5-day letter on the 5th day to allow for a full 12 work days to complete the request.	Clearly require award of fees in court when the plaintiff seeking FOIA prevails. This will cut a lot of abuse by local governments knowing only the tough and dedicated are able to go to even district court and raise the issue.	make all public officials conduct all public business over an official public email address & server that would make searching for relevant conversation threads easier and more reliable.
Some areas of FOIA are black and white; others are left to interpretation, such as agency polices or procedures and how much of a agency policy or procedure can be redacted without raising a red flag that may indicate the agency is withholding information. Some law enforcement agencies release policies or procedures; others do not.	Due to rampant administrative abuse of retaliatory pressure on employees, FOIA exemption to root this out is stymied by the personnel exemption. I don't have the answer but this is a big problem out there and lower level and high level local govt employees are often too afraid to do their jobs when supervisors are waiting to fire them if they fail to toe the line.	make any cost under \$100 free to the requestor
Make it easier to obtain records	Meeting Size and related exemptions	create an online form for requesting foia
Open up police records considerably and remove the discretion	Remove working papers from legislators;	less discretion given to public agencies; for most records, if there's no exemption, it's open.

SUGGESTIONS FOR IMPROVING FOIA - 3

Make more local government records available on websites similar to the way the state makes restaurant inspections, school dropout records; doctor discipline records, etc. available online. It would save time it takes local employees have to respond to FOIA requests and make government more transparent.	Need to specify what the responsibilities of a custodian of public records held by a nonpublic organization are.	I would allow noncriminal incident investigations conducted by police departments to be given the same exemption as criminal investigative reports. I abide by the law but I do not feel comfortable releasing death investigation reports even with all personal, medical and financial information redacted.
clearly define that volunteer fire departments and rescue squads meeting certain criteria are public bodies	Personal exemptions	Reduce exemptions and don't change the rest.
Enforcement strengthened	Redaction procedures	Not allow to charge for time spent redacting or scrubbing e-mails.
Training of public officials as to public meeting requirements.	Foster good faith communication b/w requester and government entity by easing time restraints where appropriate. I fear otherwise well intentioned government responders read requests narrowly to avoid potentially broad responses rather than communicating and working with the requester.	Records withheld citing Virginia Code Section 52-8.3 and further exempt from mandatory disclosure pursuant to Virginia Code Section 2.2-3706(F)(1). Criminal investigative files need to be available if not part of an active investigation. Incident reports, arrest complaints, etc...
A trade secret exemption for my agency that does not involve extra steps to invoke the exemption. A trade secret is a trade secret, and an extra FOIA step could be missed, thereby causing the unintended consequence of forcing an agency to misappropriate a trade secret.	Provide for records/data access on every agency website; use that as the primary form of record retrieval. In a nutshell, use proactive information provision and access rather than the current reactive format that fosters out-of-context reporting, agency defensiveness, and haphazard records access.	If responsive docs are available on a publicly accessible (no paywall) website, allow government to provide link to website in response to a FOIA request in lieu of making copies.
As long as a quorum of a public body is physically present in one location, that should be the "official" location for that meeting. Any member participating electronically should not have to make the remote location open to the public.	Formalize the negotiating involving record provisions, timing, and cost. Such negotiating is prevalent but totally unreflected in the statutes.	Make clear that employees of multimillion dollar international corporations are not entitled to a waiver of fees, even if they are reporters, because taxpayers should not be required to subsidize the commercial activities of such corporations.
The salary and other information that must be disclosed for employees should be spelled out in greater detail.	Eliminate the requirement that minutes be taken of gatherings of less than a quorum of members of a public body, given that no official action or vote may be taken by less than a quorum.	The Overly Broad Exemption for State Police Investigation Files (anything the investigating trooper places in "the file).
Extend response time	Cost	EXEMPTIONS -- NO government official should be exempt. Period.
Better definition of recovery costs/fees	More commitment from upper management to purchase needed records management tools and personnel	allow people from outside of Virginia to access Virginia records. This is a free country.
Better definition of personal information exemption	place more burden on the person asking for records to minimize specious requests	I think it would help to have a mediator to handle issues between citizens and public agencies. Having to go through an attorney and the courts is cumbersome and expensive and discourages people from pursuing their right to access public information.

SUGGESTIONS FOR IMPROVING FOIA - 4

COST -- unreasonable which makes it impossible for the average citizen and even local papers to obtain documents.	Require minutes of ALL meetings/ workshops/conferences be recorded.	Require electronic format as much as possible. Reduce costs of copies.
MEDIA -- Too many loopholes. People are using personal email, Facebook, texts, and other media that were not included in the FOIA. Also, there are no controls for insuring that no communications were deleted from personal email accounts, etc.	ACCOUNTABILITY -- When the FOIA laws are broken, there are NO repercussions. So, what's stopping them from violating the law?	Not allow to charge for time spent redacting or scrubbing e-mails.

APPENDIX A - Additional responses

Q4 additional responses

- Communications taking place via personal email, text, Facebook, etc.
- C'ville tried to pull a fast one by submitting vendor protection letters after bid award. "personal information" was cited. I didn't see where it met the listed criteria. They refused to answer the question.
- Our agency has specific exemptions that are tied to the trade secrets exemptions.
- Draft documents - when does someone's working draft become an agency draft. When pen first put to paper? Releasing draft documents interferes with the agency's deliberative process.
- Individuals or relatives of individuals who are incarcerated.
- City of Richmond uses attorney-client exemption to deny ALL communications to and from city attorney--including matters for which there is no justification for expecting confidentiality. Exemption should be rewritten to cover only matters covered by closed meeting exemption.
- Electronic format issues.
- Auditor for county devised a work-around county that concealed violations of state laws by issuing "private letter to county administration. Finally requested FOIA for auditor's letter. Conclusion: certain county employees should well be in prison.
- Quasi public organizations advancing their agenda by having laws enacted that block FOIA on fairly thin justification.

Q5 additional responses

- Not MY understanding, but the COUNTY'S. Hanover County was NOT requiring appointees to commissions (i.e. planning commission) to use county servers for email even though they are responsible for conducting county business.
- public records held by a third party that directly relate to public business. There needs to be a very specific explanation of the responsibilities of the custodian of these records.
- Draft documents - eg. When is a document actually completed and available for public dissemination?
- Denial of access to records relating to contract awarded.
- Non responses and then slow rolling the process and telling me they are working on it.
- No problems

Q6 additional responses

- Definition of when minutes or notes must be taken of any meeting where County or School Board business is conducted.
- At times, their meetings start at 2 PM but it is not always clear from their communications when the session is private and when the public may attend. At times it is not clear when the Hanover County Board of Supervisors allows for "citizens time."
- Excessive control over public access to meetings; what constitutes "public."
- Availability of paper or electronic documents referenced at meetings.
- Richmond city council does not have agendas. They have an order of business, but no indication if there are matters to be considered except a separate docket list. The order of business is not followed. The public has little way of knowing what to expect or when. Public comment is often delayed for hours.
- I often hear off the record reports that closed meetings include inappropriate discussions, but the vote to verify occurs anyway. It is a joke given that there is no way to verify what took place and peer pressure or lack of understanding keeps everyone in line. There also consistently are problems with bodies clearly identifying the topic for closed meeting as required by law.
- Actually, almost every one except electronic meetings. We had to bring legal action twice against county for FOIA violations (prevailed in both, thanks to judges brought in from outside the district).
- At this point, I do not know what I do not know.
- Making sure the motion includes all three requirements in the law, especially reasonable identification of the subject matter.

Q7 additional responses

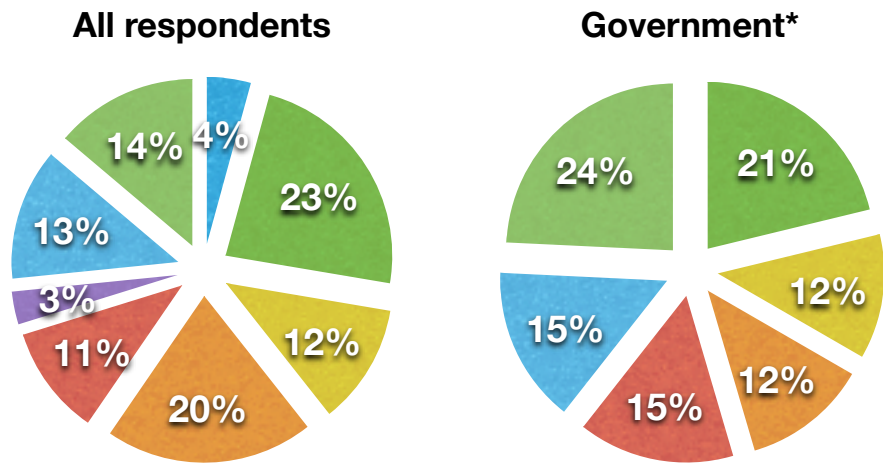
- Many of the BOS members and developers in Hanover routinely play golf together.... Many are involved in development as land developers, real estate agents. Some appointees to commissions like the planning commission approve development plans without sufficient Condition Use Permit conditions (in comparison to comparable plans in other counties) which are then rubber stamped by the BOS. One member of the Planning Commission is the spouse of a state delegate to whom many of these developers make large contributions. Also, the mother-in-law of the current Director of Planning is a land developer herself. Too much insider information and deals going on.
- responsibilities of the custodian of the public records that are held by a non-public organization
- Serial call meetings avoiding the public meeting definition, skating the law with the aid of our woefully naive Va. Supreme Court
- Supervisors typically avoiding FOIA by meeting 2 X 2
- No problems

Q8 additional responses

- It is clear, at times, that the BOS members have discusses issues with one another outside of a public forum. At times there is little to no discussion in public forums.
- none
- Any excuse to create obstacles that bar the press.
- Citizens need to know if local body is considering inviting, e.g. a toxic facility for econ. dev, and RE sale of county land to other noxious industries.
- our city attorney has this well under control
- Getting action on violations of government rules.
- Specifically designing a committee to avoid having open meetings, e.g. Capital Improvement Program meetings where contracts have already been negotiated - joint between school and county
- Motions need to give more reasonable identification of what topic is going to be discussed (i.e., the reassignment of a principal from school such and such, the possible purchase of land for new public building for use by such and such department)

APPENDIX B - side by side comparison of government respondents

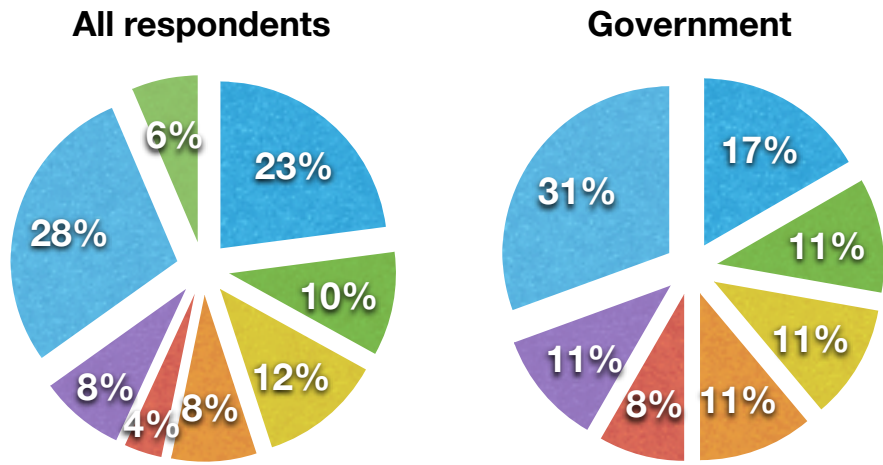
Q2



**no responses for proper requests requirements or 7-day extension*

- requirements for proper request
- denials/redactions in writing
- 5-working day timetable
- medium of record
- identifying requested records
- clarity of explanation for denial
- 7-working day extension
- creation of new record

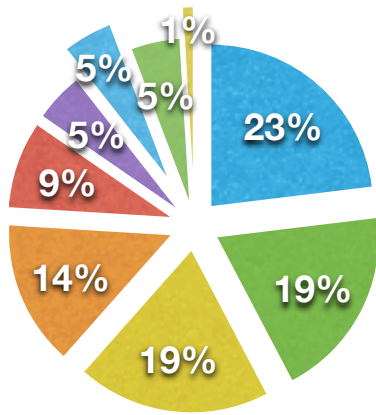
Q3



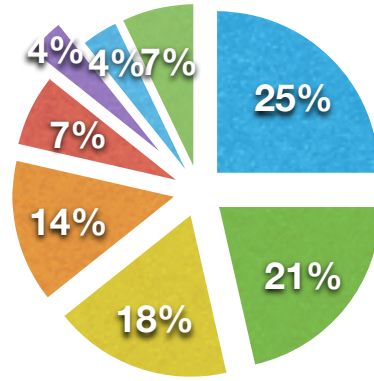
- Reasonableness of the amount charged
- Clarity of the explanation of charges
- Hourly rates charged for labor
- Advance estimates
- What effect request for deposit has on response deadlines
- What effect request for advance estimate has on response deadlines
- What constitutes actual cost
- Per page charges

Q4

All responses



Government*

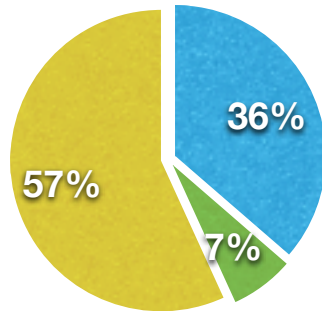


*no responses for scholastic records

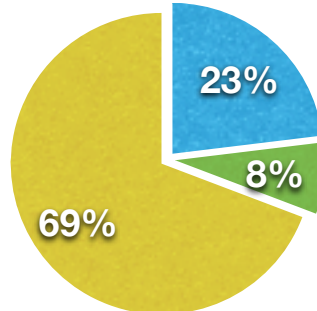
- Use of discretion in denying/disclosing records
- Personnel exemption
- Working papers/correspondence exemption
- Law enforcement records
- Attorney/client communication exemption
- Attorney work product exemption
- Trade secrets exemptions
- Administrative investigation exemptions
- Scholastic records exemption

Q5

All respondents

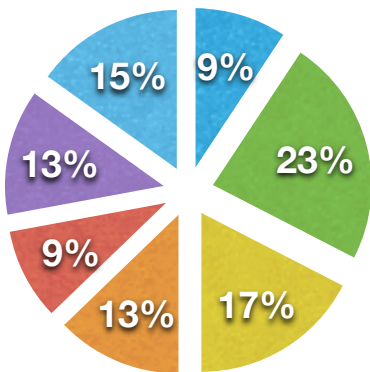


Government



- "public record"
- "public body"
- "transaction of public business"

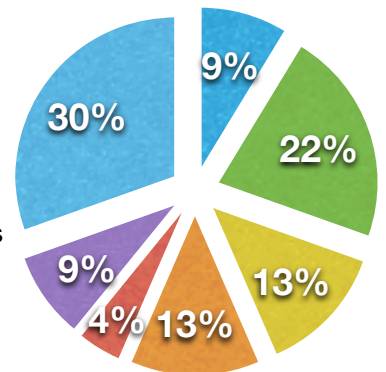
All respondents



Q6

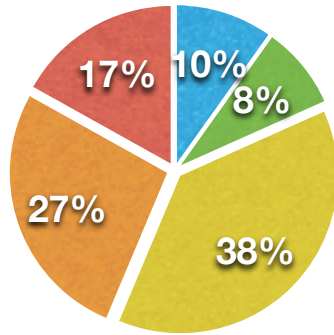
- Notice of regularly scheduled meetings
- Notice of specially called meetings
- Motions to go into closed session
- Minutes
- Certification motions at the end of closed sessions
- Agenda issues
- Electronic meeting issues

Government

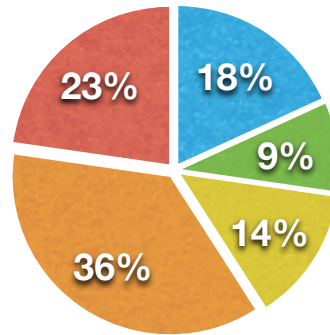


Q7

All respondents



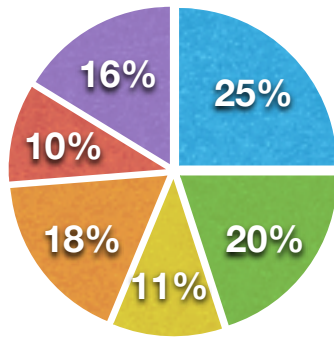
Government



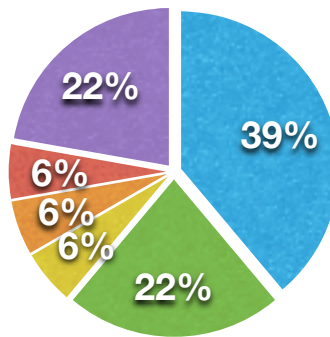
- who is a public body
- meetings of 2 or more is too great
- attendance of members at other events
- meetings of 2 or more is too few
- informal gatherings

Q8

All respondents



Government



- Use of discretion in choosing to stay in public/go into closed session
- Legal matters exemption
- Contract negotiations exemption
- Personnel exemption
- Economic development exemption
- Real estate purchase exemption