VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL
COMMONWEALTH OF VIRGINIA

Delegate Marcus B. Simon, Chair
Senator Mamie E. Locke, Vice-Chair

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VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

Date: Thursday, September 24, 2026, Time: 1:00 p.m.
Location: House Room C-206, General Assembly Building
Richmond, Virginia

Note: This meeting will be held in person and live streamed at
https://virginiageneralassembly.gov/house/committees/commstream.html

PROPOSED AGENDA
ANNOTATED

1. **Call to Order.**
2. **Adoption of Electronic Meetings Participation Policy.** Under current law, a public body must annually adopt a participation policy before using remote participation or conducting all-virtual public meetings. The Council adopted its current electronic participation policy (available here). There have been no changes in the law since the policy was adopted that would require any amendments to the policy. For those reasons, it is recommended that the Council adopt the same policy to take effect September 24, 2026.
3. **Discussion; election of FOIA Council Chair and Vice-Chair.** Elections were last held May 28, 2024. Pursuant to subsection D of § 30-178 of the Code of Virginia; the members of the Council shall elect from among their membership a chairman and a vice-chairman for two-year terms. The chairman and vice-chairman may not succeed themselves to the same position.
4. **Subcommittee Reports.**

    a. **Meetings Subcommittee.** The Meetings Subcommittee consists of Council members: Maria JK Everett (Chair), Delegate Kimberly Pope Adams, Corrine Louden, Lola R Perkins, Ken Reid, and Amigo Wade. The Subcommittee met on July 21, 2026, and September 8, 2026, to study HB 463 (Cohen) and review a proposal from Senator Elizabeth Bennett-Parker on meeting agenda posting.

        i. **Draft legislation.** Senator Elizabeth Bennett Parker's proposal would require public bodies to post the proposed meeting agenda in the same place where the meeting notice is posted. Public bodies would also be required to post the proposed agenda and meeting materials at least three working days prior to the meeting date. *The Subcommittee voted unanimously to recommend Senator Bennett-Parker's proposal for Council consideration.*

ii. **HB463 (Cohen) Virginia Freedom of Information Act; definitions; meetings; quorum and electronic communication.** Amends the definition of "meeting" for purposes of the Virginia Freedom of Information Act such that any assemblage of a quorum of the constituent membership of a public body constitutes a meeting. Under current law, as many as three members or a quorum, if less than three, of the constituent membership of a public body constitutes a meeting. The bill additionally authorizes members of a public body participating through electronic communication in a meeting in which other members are participating in person to count toward the quorum as if the individual were physically present, should such member's physical absence be due to an approved cause of absence. *The Subcommittee heard testimony from Delegate Cohen on the bill and has identified three areas for separate further consideration: (1) amending the definition of "meeting" to include four or more members, or a quorum if less than four members, rather than the current three; (2) guidance on what is meant by "informational gathering;" and (3) whether to count members using remote participation as being physically present for the purpose of determining whether there is a quorum.*

b. **Records Subcommittee.** The Records Subcommittee consists of Council members: Delegate Kimberly Pope Adams (Chair), Corrinne Louden, Chad Owen, Lola R Perkins, and Dwayne Yancey. The Subcommittee met on July 21, 2026, and September 8, 2026, to study HB 313 (Wachsmann), the definition of "personal information," charges and fees in relation to FOIA, and Artificial Intelligence (AI) and its pending impact on FOIA requests.

i. **HB313 (Wachsmann) Virginia Freedom of Information Act; public records to be open to inspection; non-citizen property owners.** Includes non-citizens owning property within the Commonwealth among the list of persons to whom all public records shall be open under the Virginia Freedom of Information Act. *The Subcommittee heard from Delegate Wachsmann and has considered amendments to the bill, but has not yet made a recommendation.*

ii. **The definition of "personal information" as it relates to FOIA and open records.** *The Subcommittee received information from staff research regarding the use of the term "personal information" in multiple states. The Subcommittee decided to take no action at this time.*

iii. **Fees and charges in relation to FOIA and records request.** *The Subcommittee received information from staff research on FOIA fees in multiple states. Megan Rhyne, Executive Director of the Virginia Coalition for Open Government (VCOG), shared a proposal to require more detailed cost estimates which the Subcommittee plans to study at its next meeting.*

iv. **Emerging Impact on AI Generated Communications on FOIA.** *The Subcommittee heard testimony regarding how artificial intelligence (AI) tools may be used in making FOIA requests and recommendations for responding to such requests. The Subcommittee directed staff to incorporate recommendations regarding such requests*

into the existing guide titled "Best Practices for Making Requests for Public Records."

c. **Remedies Subcommittee.** The Remedies Subcommittee consists of Council members: Delegate Marcus Simon (Chair), Senator Mamie Locke, Maria JK Everett, Chidi James, and Jake Lambert. The Subcommittee met on July 22, 2026, and August 20, 2026, to study HB 159 (Simon) and HB 160 (Simon) referred by the 2026 Session of the General Assembly. *The Subcommittee recommended amended versions of both bills for the Council's consideration.*

i. **HB159 (Simon) Virginia Freedom of Information Act; proceedings for enforcement; petition for mandamus or injunction.** Specifies that service of process or a summons for a hearing shall not be required when a petition for mandamus or injunction to enforce rights granted under the Virginia Freedom of Information Act has been filed.

ii. **HB160 (Simon) Virginia Freedom of Information Act; officers, employees, or members of a public body; alleged willful and knowing violations; mitigating factors to be considered.** Specifies that civil penalties may only be imposed on officers, employees, or members of a public body in actions brought against them in their individual capacity for certain violations of the Virginia Freedom of Information Act. The bill further requires a court, when determining whether an officer, an employee, or a member of a public body has committed certain violations of the Virginia Freedom of Information Act willfully and knowingly, to consider certain mitigating factors, including good faith reliance on (i) opinions of the Attorney General; (ii) court cases substantially supporting such officer's, employee's, or member's actions; (iii) advisory opinions of the Virginia Freedom of Information Advisory Council; and (iv) advice of counsel for the public body, as evidence that such officer, employee, or member did not willfully and knowingly commit such violation. Current law provides any officer, employee, or member of a public body the right to introduce at any proceeding regarding such willful and knowing violation a copy of a relevant advisory opinion issued by the Virginia Freedom of Information Advisory Council. This bill is a recommendation of the Boyd-Graves Conference.

5. **Other business.**
6. **Judicial Updates.**
7. **Public Comment.** If you wish to provide public comment virtually, please contact us via email at foiacouncil@dls.virginia.gov no later than **Tuesday, September 22, 2026** at **9:00 p.m.**
8. **Adjournment.**

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Council Members

Delegate Marcus B. Simon, Chair	Senator Mamie E. Locke, Vice-Chair
Delegate Kimberly Pope Adams	Senator Richard H. Stuart
Chad Owen	Amigo Wade
Jacob R. "Jake" Lambert	Chidi James
Maria J.K. Everett	Ken Reid
Corrine Louden	Lola Rodriguez Perkins
Lindsay Fisher	Dwayne Yancey

Staff

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The FOIA Council's website is: foiacouncil.dls.virginia.gov. To assist us in providing Internet dissemination of materials, presenters are requested to submit written comments and handouts in electronic format by email to staff prior to meetings. Presenters are also requested to bring 20 copies of their remarks or handouts to meetings. These copies will be provided to FOIA Council members and the public.