

EASTERN WV REGIONAL AIRPORT AUTHORITY
RULES FOR COMPLYING WITH FREEDOM OF INFORMATION REQUESTS

Section 1 – General.1.1. Scope.—These rules prescribe the procedures under which the public may inspect and obtain information and records generated, developed or held by the Eastern WV Regional Airport Authority. These rules do not apply to the disclosure of information of any officer, employee or authorized representative of the State or Federal government when acting in an official capacity.

1.2. Authority. – W. Va. Code 29B-1 et seq., and 29A-3-3.1.3.

Date of Adoption: October 14, 2007

Section 2 – Definitions.

2.1. For the purpose of these rules:

- (a) “Act” means the Freedom of Information Act, Chapter 29B, Article 1 of the West Virginia Code.
- (b) “Actual Cost” shall mean the expense incurred by the Airport Authority in staff labor to locate and duplicate the requested documents and the cost of the equipment and materials utilized in the endeavor.
- (c) “Days” shall reference to working days.
- (d) “Authority” means the Eastern WV Regional Airport Authority located at 170 Aviation Way, Room 105, Martinsburg, West Virginia, 25405.
- (e) The “labor rate” is based on the approximate cost to the Authority of personnel assigned to the task of locating requested records, transporting them for copying and refilling same. This rate is established at \$ 25.00 per hour. Where the time expended is less than 10 minutes, no labor rate is to be applied.
- (f) “Record” means any books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics which are in the possession of the Authority, but does not include materials that are the personal property of the Authority employee and does no include materials which are copyrighted or are readily available to the public such as books, journals, and periodicals and statutes. State Rules promulgated by the Eastern WV Regional Airport Authority are made available in booklet form.
- (g) “Records Custodian” shall mean the Airport Manager and his or her designee.
- (h) “Request” means a signed written request made in accordance with these rules of procedure to inspect or obtain a copy of one or more records.
- (i) “Requestor” means any person, including any natural person, corporation, partnership, firm or association, who has submitted a request to the Authority.

Section 3 –Policy on Disclosure.

3.1. Statement of Policy

- (a) All Authority records shall be available to the public unless they are exempt from the disclosure requirements of the Act.
- (b) All nonexempt records shall be available to the public upon request regardless of whether any justification or need has been shown by the requestor and regardless of whether or not the request cites the Act.

Section 4 – Form of Request.

- 4.1. A request shall be made in writing, signed by the requestor, and shall reasonably describe the records sought in a way that will permit their identification and location and should be addressed to the Eastern WV Regional Airport Authority located at 170 Aviation Way, Room 105, Martinsburg, West Virginia 25405. Oral or phone requests for the records will only be honored if followed by a written request in compliance with these rules. The period of five working days will begin upon receipt of written request.

Section 5 – Requests Which Do Not Reasonably Describe Records Sought.

- 5.1. If the description of the records sought in the request is not sufficient to allow the Authority to identify and locate the requested records, the requestor will be notified within five working days that the request is denied until additional information is provided in an amended request. Until such additional information is provided, the Authority has no further obligation to fulfill the request.

Section 6 – Responsibilities of the Authority.

- (a) The Authority shall, upon receipt of a written request, mark the request with the date of receipt and begin to identify and locate the requested information or ask for a more specific request.
- (b) The Authority shall respond in writing to the requestor within five working days of the receipt of the written request. Such response shall:
 - (i)Furnish copies of the requested information; or
 - (ii)Advise the requestor of the time and place at which he/she may inspect and copy the information; or
 - (iii) Deny the request in accordance with these rules of procedure; or
 - (iv) Notify the requestor that the records require more than five days to assemble, and identify an approximate date of completion of the request.

Section 7 – Denials of Requests.

7.1 Procedures Applicable to Denials.

- (a) Denials of requests may be issued only in the following circumstances:
 - (i) the requested record is no known to exist;
 - (ii) the record is not in the Authority's possession;
 - (iii) the record is exempt from disclosure under the Act; or
 - (iv) the description of the record sought in the request is not sufficient for the Authority to identify and locate the record.
- (b) Written notification informing the requestor of the denial must be sent within five working days of the Authority's receipt of the request. The notification shall state the following:
 - (i) the reason for denial;
 - (ii) that the agency's responsibility to provide information is at an end; and
 - (iii) that the requestor may pursue injunctive or declaratory relief in the circuit court in the county where the public record is kept.

Section 8 – Exemptions.8.1. The following categories of information are specifically exempt from disclosure under the provisions of the Act:

- (a) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors; provided that in no case shall effluent data submitted pursuant to Chapter 22, Article 11 of the West Virginia Code be considered trade secrets under this paragraph;
- (b) Information of a personal nature such as that kept in a personnel or similar file that contain specific identifiers would constitute an unreasonable invasion of privacy, unless deemed to be of public interest by clear and convincing evidence requires disclosure in the particular instance as determined by a court of law; provided, that nothing in this article shall be construed as precluding an individual from inspecting or copying his own personnel or similar file.

Confidential information contained in medical records or similar files that contain specific identifiers are protected under the Health Insurance Portability and Accountability Act of 1996 and will not be released until all provisions for confidentiality under HIPPA rules and regulations have been met.

- (c) Test questions, scoring keys and other examinations data used to administer a licensing examination, examination for employment or academic examination;
- (d) Records of law enforcement agencies that deal with the detection and investigation of crime and internal records and notations of such law of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement;
- (e) Information specifically exempted from disclosure by statute;
- (f) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage such record, archive, document or manuscript;
- (g) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers; and
- (h) Internal memoranda or letters receive or prepared by any public body.

Section 9 – Partial Disclosure.

9.1. Fees will be charged to requestors for searching for and reproducing requested records, in accordance with the following:

- (a) Copying costs, including any certification of the record for an appeal, shall be twenty cents (\$.25) per page, provided, that if the total cost is less than \$1.00, there shall be no charge.
- (b) In circumstances in which materials must be reproduced outside the Airport Authority facilities, the charge shall include the amounts paid to any third party for copying, together with the application of the labor rate for the Authority's reasonable and actual time spent in locating; duplicating transporting and obtaining said duplication.
- (c) A fee of twenty-five (\$ 25.00) dollars per hour or fraction thereof shall be charged for the agency's time spend in locating and duplicating the requested records beyond the initial 10 minutes used to locate such records.
- (d) An invoice for the total amount of fees will be payable upon receipt of requested information. Payment shall be made by check or money order made payable to the Eastern WV Regional Airport Authority.

Richard S. Wachtel

10/14/07

Chairman, Eastern WV Regional Airport Authority

Date