

Markell orders changes to open records to public

The News Journal, by Jeff Montgomery, Oct. 20, 2011

Gov. Jack Markell today ordered sweeping changes to the state's 34-year-old open records law, putting in place measures he said would simplify and reduce the time and cost of [citizen](#) access to government documents.

Markell issued an executive order requiring the [changes](#) --- the most wide-ranging since the Freedom of Information Act took effect in 1977 -- shortly before signing separate legislation establishing a standard form for all FOIA requests. The new, universal form could eliminate needless, duplicative bureaucratic hurdles faced by those requesting records of government activities.

Today's overhaul followed years of complaints about inconsistent policies and excessive charges for Freedom of Information Act requests, problems that delay and discourage public participation in and review of government activities. The changes were based in part on months of talks between the administration and The News Journal and Associated Press about needed reforms.

"I think that it was Thomas Jefferson who said that the currency of democracy is information," Markell said this morning. "We're committed to figuring out a better way to do this, in terms of being more responsive, more transparent and showing to the public that we're proud of the judgments we make and how we conduct our [business](#)."

Markell added that government decisions "could always get better," and that those [improvements](#) can be helped by a fully informed public.

The order covers only executive branch agencies, with the General Assembly, courts and county and local government still setting their own procedures. New policies must be in place by Feb. 1.

Among the changes:

- Agencies will charge a flat 10 cents per page, with the first 20 pages provided without charge, down from [rates](#) as high as 50 cents per page.
- A "No Wrong Door" policy will require offices to forward FOIA requests to appropriate agencies if inquiries are misdirected or better able to be answered by another government unit.
- Requests will be accepted by mail, fax, email, in person or by the new universal form.
- Every executive branch agency will have a designated FOIA coordinator to assist and serve as a contact person.
- Agencies will no longer charge for the cost of legal reviews needed to determine if documents are exempt from the law, and other administrative costs for responding to requests will be kept to a minimum, with [advance](#) notice provided before billing for the expense.

Agencies in the past have attempted to bill news organizations, including The News Journal, hundreds or thousands of dollars for FOIA requests, imposing charges that included fees for microseconds of mainframe [computer](#) time.

Sen. Karen Peterson, D-Stanton, who sponsored legislation that required development of the standard FOIA request form, said in a written statement, "We have made substantial progress on open government in the last few years, and we're continuing that today."

Margaret M. McKay, a former Delaware State University professor who chairs the League of Women Voters of Delaware FOIA project, said she was particularly pleased that agencies will designate coordinators for information requests.

"Oftentimes people don't know where the records are, and they're so busy with other things they can't find them, so you have delays," McKay said.

The League completed an audit of state and local government compliance with open records last year, getting mixed results from sample requests delivered to 40 different agencies.

Only about half were found to be "user friendly," and several agencies inappropriately asked to be given reasons for information requests. Some released salary and expense [account](#) records only reluctantly.

For more coverage see The News Journal on Friday or www.delawareonline.com.

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