

## **RECOMMENDATIONS FOR COMPLIANCE WITH THE RECORDS PROVISIONS OF FOIA**

Prepared by Thomas B. Mooney and Jessica Richman Smith, Shipman & Goodwin LLP

### A. The FOIA Request:

- If the request is simple, just comply *promptly*.
- If the request is not simple reach out to the requesting party to discuss the request.
- Be friendly; being cooperative will facilitate agreement to provide the records requested without imposing unnecessary burdens on the public agency.
- Involve appropriate personnel in the search for the requested records; just because you are not aware of a record doesn't mean it doesn't exist.
- The "personnel files" exemption is narrow, and much of the material in the personnel file is subject to public disclosure -- wherever it is.
- Computer-stored records are subject to special rules.

### B. Inspecting and Copying Public Records:

- The public has the right to inspect records during regular business hours, but for extensive requests you may require an appointment.
- When you are the custodian for public records, you are responsible for their safety.
- You may require that a request for a copy of a public record be in writing, but there is no similar requirement for inspection of public records.
- You are not required to do research, but gathering public records for inspection is not considered research.
- Upon request, a member of the public is entitled to receive a "certified" copy of a public record.
- Members of the public may use a handheld scanner, subject to charges as the public agency may set as provided by Conn. Gen. Stat. § 1-212(g).
- Provide an accurate estimate of the cost of providing electronic information, and maintain accurate records to document such costs.

### C. Dealing with a FOIA Complaint.

- Do not shut down communication when a complaint is filed; a complaint is the beginning of a process, not the end.
- Utilize the good offices of the FOIC Ombudsman.
- Define the scope of the dispute; resolve what can be resolved.
- Remember that the hearing is the only opportunity to present evidence.
- For confidential records, be aware of the *in camera* inspection option.
- Once you receive a decision, plan to attend the full Commission hearing. The proposed decision is just that -- proposed, and it can be changed.