

LEGISLATIVE, RULES & GOVERNMENTAL OPERATIONS COMMITTEE

LEGISLATIVE AGENDA

NOVEMBER 2, 2023

***Committee Members: Supervisors Strough, Conover, Frasier, Geraci, Thomas, Driscoll and Wild
Chair of the Board shall serve as an Ex-Officio member when needed in accordance
with Section C(4) of the Rules of the Board***

- I. Committee meeting called to order by Committee Chair
- II. Approval of minutes of prior Committee meeting - *September 28, 2023*
- III. Privilege of the Floor/Public Comment
- IV. Action Agenda/New Business Items:
 - 1) Review of proposed changes to Warren County FOIL Policy.
- V. Discussion Items: None.
- VI. Referrals/Pending Items:
LEGISLATIVE: None.
- VII. Privilege of the Floor to discuss any additional items to come before the Committee
- VIII. Motion to adjourn

Attachments:

- 1) *Proposed changes to Warren County FOIL Policy (Action Agenda/New Business Item 1).*

**SCHEDULE “A”
WARREN COUNTY POLICY GOVERNING
FREEDOM OF INFORMATION LAW
REQUESTS AND APPEALS.**

SECTION 1: PURPOSE AND SCOPE.

1. The Freedom of Information Law (hereinafter, “FOIL”) was enacted in 1977 as Article 6 of the Public Officers Law and was patterned from the federal Freedom of Information Act (hereinafter, “FOIA”), to provide the public with means to access governmental records.
2. The legislative intent for FOIL’s enactment was to ensure a free press and to allow members of the general public to seek accountability for governmental actions and to thwart governmental secrecy. By enacting this policy, the County of Warren reaffirms the legislative intent of FOIL for all County operations.
3. The Warren County Policy Governing Freedom of Information Law Requests and Appeals (hereafter, “Policy”) shall be effective upon enactment for all FOIL requests and FOIL appeals filed after the effective date and shall govern, replace and supersede all prior FOIL policies for the County of Warren. FOIL requests and FOIL appeals filed prior to the effective date of this Policy shall be governed by the County’s prior FOIL policy.
4. The County of Warren presumes that all County records are open for public inspection, subject only to the extent that records or portions of records fall within the ambit of at least one statutorily authorized reason for denial contained in section 87(2)(a) of the Public Officers Law.

SECTION 2: DEFINITIONS.

1. “Appeal Officer” is the Warren County Officer designated by this Policy as responsible for coordinating responses to all FOIL Appeals filed with the County of Warren, as provided by section 89(4) of the Public Officers Law.
2. “Designated Department Head” is the appointed head of a County department or office who is designated and delegated authority, in writing, by the Records Access Officer to receive FOIL requests and provide FOIL responses.
3. “Record” shall mean, any information kept, held, filed, produced or reproduced by, with or for Warren County, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or discs, rules, regulations or codes.

4. "Records Access Officer" is the Warren County Officer responsible for supervising, overseeing and coordinating the County's compliance with initial response to a FOIL request, pursuant to section 89(3) of the New York State Public Officers Law, 22 NYCRR 1401.2, and Section 3 of this Policy.
5. "Subject Matter List" shall mean, a reasonably detailed current list, by subject matter, of all records in Warren County's possession, to which shall be sufficiently detailed to permit identification of the category of record sought.

SECTION 3: DESIGNATION AND DUTIES OF THE RECORDS ACCESS OFFICER AND CERTAIN DESIGNATED DEPARTMENT HEADS

1. The Warren County Administrator is designated as the Records Access Officer, (hereafter, "RAO") and shall be responsible for ensuring Warren County maintains compliance with its responsibilities to produce requested documents under Public Officers Law § 89(3) and 21 NYCRR 1401.2 (collectively, "FOIL Law and Regulations").
2. The Records Access Officer shall:
 - a. Serve as the County's primary point of contact for FOIL requests, to include requests received electronically through the County's website;
 - b. Provide administrative oversight for the implementation and operation of the FOIL Policy, to include the County's timely response to all FOIL requests received from any source and maintaining and publishing a subject matter list on the Warren County website which is also available upon request, without charge;
 - c. Designate and delegate authority to specific County Department Heads, in writing, to serve as "Designated Department Heads" authorized to receive and respond to FOIL requests on behalf of the Record Access Officer and the County;
 - d. Maintain and publish a current list of County Department Head Offices that are authorized to serve as "Designated Department Heads;"
 - e. Assist individuals seeking County records in reasonably describing the records sought, by referring individuals to the subject matter list and when appropriate advising how County records are indexed and/or filed; and
 - f. Contact individuals requesting records when a request is deemed voluminous or when the production of records involves substantial effort by County employees, so that the individual may review and restrict the FOIL request to reduce the volume of records sought and/or the time to complete the FOIL request.
3. Upon the Records Access Officer receiving a FOIL request that reasonably describes records maintained by the County, the Records Access Officer shall:

- a. Forward the FOIL request to the appropriate Designated Department Head for review and response; or
- b. Contact the appropriate County officers or employees and request that they search for records that are responsive to the FOIL request.

SECTION 4: DUTIES OF DESIGNATED DEPARTMENT HEADS

1. Each Designated Department Head shall respond to a FOIL request for records maintained by their department and shall not provide County records maintained by any other County department or employee. If a FOIL request seeks records the Designated Department Head believes are maintained elsewhere in the County or the request encompasses records from multiple county offices, then the Designated Department Head shall refer the FOIL request back to the Records Access Officer to ensure only one response is provided by the County.
2. If a Designated Department Head receives a FOIL request from any person, then a copy of the FOIL request shall be forwarded to the Records Access Officer for administrative tracking.
3. If a Designated Department Head receives or responds to a FOIL request, then the Designated Department Head shall complete all responsibilities required by the Records Access Officer in responding to the FOIL request.
4. The Designated Department Head shall provide to the Records Access Officer the following for each FOIL response issued:
 - a. The date the FOIL request was received;
 - b. A complete copy of the original FOIL request received, if not received from the Records Access Officer;
 - c. The date the FOIL response was released to the requester;
 - d. A complete copy of the FOIL response, to include the name and contact information to whom the FOIL response was provided;
 - e. Any exemptions to disclosure claimed by the Designated Department Head in the FOIL response; and
 - f. If the FOIL response contains redactions, then a complete *unredacted* copy of the FOIL response shall be provided.

SECTION 5: FOIL REQUESTS FOR PUBLIC ACCESS TO RECORDS.

1. All requests for records must be made in writing. No oral requests or request for information will be accepted or responded to in any manner by any County officers or employees. It is strongly recommended and encouraged that all requests for records be submitted through the Warren County website <https://warrencountyny.gov/form/contact-foil>, or by submission of a paper copy of the County's FOIL request form enclosed at Attachment "A."

2. The requesting party shall specify in the request the type of medium in which they prefer records to be provided. Absent a stated preference, the presumption shall be that the requesting party prefers a physical copy of the papers and shall pay any fees incurred. If records are being produced in paper copies, then Record Access Officer shall receive payment prior to release of the records.
3. If Warren County records are maintained on the Warren County website or otherwise readily accessibly to the general public online, then the requesting party shall be informed of the location for the records on the County's website and no further record production shall be required.
4. Requests for records may be submitted to the Records Access Officer on any business day between the hours of 9:00 o'clock in the forenoon and 4:30 o'clock in the afternoon, in person, by mail, or electronically, to be considered received on that day. Any requests received outside of the designated hours will be considered received on the following business day.
5. The Records Access Officer or Designated Department Head shall provide the requesting party one of the following responses, in writing, within five (5) business days after receipt of a FOIL request:
 - a. Informing the requesting party that the request does not reasonably describe a record maintained by Warren County and including directions, when practicable, which may aid the requesting party to reasonably describe the records sought. The writing shall also state that this determination does not constitute a denial by the County to provide the records requested, and therefore, may not be appealed;
 - b. Granting or denying access to records sought in whole or in part; or
 - c. Acknowledging receipt of a request in writing and including an approximate date when a response to the request will be provided. If the approximate date exceeds twenty (20) business days, the acknowledgment will also include the reason for the delay in response.
6. The Records Access Officer or Designated Department Head shall not deny a request for records without first locating all records which are responsive to the FOIL request.
7. The blanket denial of a FOIL request is strictly prohibited. No denial of a FOIL request may occur without the requested records first being identified and inspected for potential release.
8. For twelve (12) months after a FOIL response is released, the Records Access Officer and the Designated Department Head shall retain all communications to and from a requesting party, as well as a complete copy of redacted and unredacted records provided by the FOIL response.

9. A FOIL request and FOIL response for records which appears to involve property damage, personal injuries to any person, or other potential, future legal claims against the County, shall be provided by blind copy at the time of release to the County Attorney, in electronic format.
10. Certifications requested in accordance with FOIL Law shall be provided by the Records Access Officer or the applicable Designated Department Head responsible for responding to the request, in the form provided at Attachment "B."

SECTION 6: DENIAL OF ACCESS AND APPEALS.

1. Denial of access to a County record, in whole or in part, shall be provided in writing to the requesting party. Failure of the Records Access Officer or the Designated Department Head to acknowledge a FOIL request within five (5) business days of receipt or to provide the records on or before the date provided in the acknowledgment, shall be deemed a constructive denial of the FOIL request.
2. If the Records Access Officer or the Designated Department Head denies a FOIL request in whole or in part, the denial response shall advise the requesting party of their right to appeal and shall provide the FOIL Appeal Officer's name and contact information to where appeals may be received.
3. Any person denied access, as defined in section 6(1) of this Policy or pursuant to Article 6 of the New York State Public Officers Law, may appeal the decision within thirty (30) days of the denial date.
4. The Warren County Attorney is the designated FOIL Appeals Officer, with a principal office located at the Warren County Municipal Center, 1340 State Route 9, Lake George, New York 12845, and a contact phone number of (518) 761-6463.
5. All appeals shall be submitted to the FOIL Appeals Officer in writing by completing the electronic form on the County Attorney website or by mailing in a printed copy of the appeal letter. The appeal must specify the following to be considered:
 - a. The date and location of the requested records;
 - b. A description of the records that were denied; and
 - c. The name and return address of the person who requested the records and now seeks to appeal the denial of records.
6. The FOIL Appeal Officer shall determine the FOIL appeal, in writing, within ten (10) business days of receipt, with the day of receipt being on any business day between the hours of 8:30 o'clock in the forenoon and 4:00 o'clock in the afternoon, in person, by mail, or electronically, to be considered received on that day. Any appeal received

outside of the designated hours will be considered received on the following business day.

7. The FOIL Appeal Officer's written determination shall be provided to:
 - a. The requesting party whose FOIL request was denied;
 - b. The Records Access Officer;
 - c. The Designated Department Head, if any;
 - d. The Clerk of the Board of Supervisors in care of the members of the Board; and
 - e. The New York State Committee on Open Government.
8. The FOIL Appeal Officer may treat any FOIL Appeal letter which includes a request for one or more records not requested by the original FOIL request as a newly-submitted FOIL request, instead of a FOIL appeal. By doing so, the FOIL Appeal Officer shall respond to any requests appropriate for appeal and refer any new requested items to the Records Access Officer for further action under this Policy.
9. If a FOIL Appeal attempts to appeal a letter that does not constitute a denial, such as a letter which informed the requesting party that the FOIL request did not reasonably describe records sought or that the County does not maintain the records sought, then the FOIL Appeal Officer shall inform the requesting party that the FOIL Appeal is not deemed an appeal and that the matter was returned to the Records Access Officer for further assistance with the request.

SECTION 7: FEES.

1. The Records Access Officer, a Designated Department Head, or the FOIL Appeal Officer, is required to charge for the following:
 - a. Twenty-Five cents (\$.25) per page for photocopies that do not exceed 9 by 14 inches; and
 - b. For the actual cost to produce the document for disclosure.
2. In calculating the actual cost of production, the following must be considered when determining the fee for a FOIL request:
 - a. The hourly salary of the lowest paid employee who has the skill required to prepare a copy of the requested records, when producing the records will take more than two (2) hours of the employee's time;
 - b. The actual cost of the storage device or media provided to the requesting party; and
 - c. The actual cost to Warren County when an outside professional service must be hired or retained to prepare a copy of a record.

3. The Records Access Officer, a Designated Department Head, or FOIL Appeal Officer must notify the requesting party of the estimated cost of preparing a copy of the records and receive full payment prior to preparing a copy of the requested records. Such notification must include:
 - a. The reason for the imposed fee;
 - b. The title and salary of the employee performing the work if the work is anticipated to exceed two hours;
 - c. The total number of pages being printed to respond to the FOIL request;
 - d. The estimated total amount and date payment is due in order for work to proceed on the FOIL request;
 - e. The types of payment accepted by the County and the location where the payment must be delivered by the due date;
 - f. That failure to pay the total amount due within thirty (30) days of written notification will result in the County finding the FOIL request abandoned and closing the matter without further action. The requesting party is permitted to resubmit their FOIL request upon tendering payment and the resubmission shall be treated as a new FOIL request.
4. If while preparing the response to a FOIL request, the Records Access Officer, a Designated Department Head, or the FOIL Appeal Officer, determines the cost exceeds the initial estimate, written notification must be made to the requesting party that additional payment is required in order to continue with the preparation and release of the FOIL response and the requested records. The County shall make reimbursement when overpayment is made.
5. Other fees may be imposed upon a requesting party contrary to the above-referenced fees if authorized by state, federal, or local law.
6. The Records Access Officer, a Designated Department Head, or the FOIL Appeal Officer shall not waive a fee for photocopies or the actual cost of production.
7. The Records Access Officer, Designated Department Head, or FOIL Appeal Officer shall not produce responsive records until the required payment was received. If payment is tendered in a form other than cash, money order or a certified bank check, then payment shall not be deemed received until the payment the Warren County Treasurer receives confirmation that the tendered payment has cleared. For example, payment by personal check may require up to ten (10) business days before cleared by the County's financial institution.
8. The withholding of records until receipt of payment shall not be considered a denial of records.
9. The failure to pay all fees imposed under this policy within thirty (30) days of issuing written notice shall require the requesting party to submit a new FOIL request.

SECTION 8: REQUESTS FOR RECORDS FROM THE COUNTY COMPUTER NETWORK AND SERVER

1. Records maintained on the Warren County computer network and server (hereafter, “server”), including but not limited to requests for electronic mail (“email”) communications stored in the County’s email archives, must be retrieved in accordance with the Warren County Computer Use Policy, resolution 144 of 2023, effective March 17, 2023, and any future amendments to the Computer Usage Policy.
2. Warren County maintains voluminous emails that are archived on the County server. The archived emails are indexed in such a manner that requires the Director, Information Technology to formulate and run Boolean searches for responsive records, followed by a separate manual review of potentially responsive emails to identify emails responsive to the FOIL request.
3. Persons requesting emails from the County’s email archives shall provide the following information as part of the FOIL request in order for the request to reasonably describe the records sought and in order for the County to undertake reasonable efforts to identify the archived emails requested. The failure to provide the following information requested may result in the FOIL request being determined to not reasonably describe the records sought, or the assessment of fees to a FOIL request.
4. A FOIL request seeking email records shall, at a minimum, include in the FOIL request the following:
 - a. The name of the individual or email address which sent the email requested;
 - b. The name of the individual or email address which received the email requested;
 - c. The date and time the email was sent, or in the alternative, the narrow date range (i.e. less than seven (7) days) during which the email was sent. FOIL requests providing no date and time, or a date range greater than seven days may result in the FOIL request being determined to not reasonably describe the records sought, or the assessment of fees to the FOIL request; and
 - d. Specific keywords which clearly identify the subject matter requested and limit the retrieval of records unrelated to the FOIL request. The County Director of Information Technologies shall run a Boolean search using only the specific keywords provided by the FOIL request and shall not be required to interpret any FOIL request to create any other or additional Boolean search terms for use in searching for responsive records to any FOIL request.
5. The failure of a requesting party to provide each required item of information stated above may prohibit Warren County from being able to complete the FOIL request and constitute a failure by the requesting party to reasonably describe a record.

6. Requesting individuals should avoid using the following words or phrases as keyword search terms in FOIL requests for archived emails from the County's server. Each of the words and phrases below is ambiguous and prevents County personnel from conducting an electronic search for specific records which may be available and responsive to a FOIL request.:

- "relating to;"
- "concerning"
- "approximately"
- "associated with;"
- "about"

FOIL requests using such terms may be deemed to constitute a failure by the requesting party to reasonably describe a record maintained by the County.

7. It is strongly encouraged that persons requesting County email records utilize the Email Request Form enclosed as Attachment "C."

SECTION 8: MISCELLANEOUS.

1. All requests for records under this Policy by Warren County officials or employees which do not pertain to their scope of work with the County shall be treated as a FOIL request. The Records Access Officer, a Designated Department Head, or the FOIL Appeal Officer may not waive applicable fees for requests from Warren County officials or employees.
2. The Chairman of the Warren County Board of Supervisors shall be deemed the Conflict Record Officer and Conflict Appeal Officer and shall decide any FOIL requests or FOIL appeals to which the Records Access Officer or FOIL Appeal Officer has a conflict.
3. Records shall be available for public inspection upon appointment only at the Office of the Warren County Administrator or Designated Department Head. Please contact the appropriate office to schedule an appointment date and time during business hours.
4. A copy of this policy shall be published on the Warren County website and shall be physically posted in the Warren County Municipal Center and the Human Services Building. Copies may be obtained, in person, from the Warren County Administrator's office during business hours.
5. With the exception of redactions specifically required by state or federal statute, it is in the discretion of the Records Access Officer to post, publish, or publicly make available any FOIL request and FOIL response submitted by any person which the Record Access Officer deems to be of public interest.

SECTION 9: SEVERABILITY.

1. If any provision of this Policy or the application thereof to any person is found to be invalid by a court of competent jurisdiction, such judgment shall not affect the validity of the other provisions of these regulations or the application thereof.

SECTION 10: EFFECTIVE DATE.

1. This policy shall take effect immediately upon adoption by the Warren County Board of Supervisors for all FOIL requests filed thereafter.

Warren County Board of Supervisors

RESOLUTION NO. 346 OF 2018

RESOLUTION INTRODUCED BY SUPERVISORS STROUGH, LEGGETT, BRAYMER, WILD, MCDEVITT, DIAMOND, DICKINSON, GERAGHTY, MAGOWAN, SOKOL AND DRISCOLL

AMENDING THE WARREN COUNTY FREEDOM OF INFORMATION LAW (FOIL) POLICY

WHEREAS, pursuant to Resolution No. 173 of 1974, later amended by Resolution No. 77 of 1978, the Warren County Board of Supervisors adopted regulations establishing the rules and procedures governing the public access to records of the County of Warren and its authorized agencies, and

WHEREAS, the Warren County Board of Supervisors adopted the Warren County Plans and Policies set forth in the Warren County, New York Plans and Policies and Municipal Code, which includes Section III.075 - .083 Freedom of Information Law (FOIL) Policy, by Resolution No. 416 of 2015, and

WHEREAS, the Legislative & Rules Committee of the Warren County Board of Supervisors has recommended revising several portions of the FOIL Policy, now, therefore, be it

RESOLVED, that Chapter III of the Warren County Plans and Policies, entitled County Administrator/Board of Supervisors, is hereby amended to revise Sections III.075-.084, as per the attached Schedule "A" document.

Schedule "A"

FREEDOM OF INFORMATION LAW FOIL

§ III.075 PURPOSE AND SCOPE.

The purpose of these regulations are to set forth the rules, methods and procedures governing the availability, location and nature of records (as that term is defined herein) of the County of Warren subject to the provisions of N.Y. State Pub. Off. Law Article 6, known as the Freedom of Information Law.
(Res. 77 of 1978, passed - -1978)

§ III.076 DEFINITIONS.

For the purpose of these regulations, the following terms are defined as set forth below:

FISCAL OFFICER. The Warren County Treasurer or his or her authorized representative.

PAYROLL RECORD. An itemized record setting forth the name, business address, title and salary of every officer and employee of the County of Warren or its authorized agencies.

RECORD. Any information kept, filed, held, produced or reproduced by, with or for the County of Warren, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilm, computer tapes or discs, rules, regulations or codes.

WORKDAY. Any day except Saturday, Sunday, a public holiday or a day on which the Warren County Municipal Center is otherwise closed for general business.
(Res. 77 of 1978, passed - -1978)

§ III.077 PROCEDURE FOR OBTAINING RECORDS.

(A) Records Access Officer and Custody of Records.

(1) The Warren County Administrator shall serve as Records Access Officer for all county records excepting payroll records. All FOIL requests directed to any department of Warren County are to be sent to the attention of the Warren County Administrator through the form provided on the Warren County website at <http://www.warrencountyny.gov/contact.php>.

(2) The following Warren County officers or their authorized representatives are hereby designated as the custodian of records maintained by the department listed, excepting payroll records:

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Office of the County Administrator	County Administrator
Assigned Counsel	Administrator
Auditor	Auditor
Board of Elections	Commissioners
Board of Supervisors	Clerk of the Board of Supervisors
Budget Officer	Budget Officer
Countryside Adult Home	Director
County Attorney	County Attorney
County Clerk	County Clerk
County Treasurer	County Treasurer
District Attorney	District Attorney
Emergency Services	Director/Fire Coordinator
Employment and Training/One-Stop Career Center	Director
Fire Prevention and Building Codes Enforcement	Administrator
Historian	Historian
Human Resource and Civil Service	Human Resources Director
Information Technology	Director
Motor Vehicles	County Clerk
Office for the Aging	Director
Planning	County Planner
Probation	Director
Purchasing	Purchasing Agent
Public Defender	Public Defender
Public Health	Director
Public Works (incl. Buildings & Grounds, Airport, Parks, Recreation and Railroad, Up Yonda Farm)	Superintendent of Public Works
Real Property Tax Services	Director
Self-Insurance	Administrator
Social Services	Commissioner of Social Services

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Sheriff	Sheriff or his/her designee
Tourism	Director
Veterans Services	Director
Weights and Measures	Sealer of Weights and Measures

(3) Any FOIL request directed to any department of Warren County not specifically set forth herein is to be sent to the attention of the Warren County Administrator through the form provided on the Warren County website at <http://www.warrencountyny.gov/contact.php>. FOIL is not generally applicable to courts within the Warren County Municipal Center, which are operated by the Office of Court Administration, an agency of New York State.

(B) (1) Any person who wishes to inspect or obtain a copy of any such record may request access to the record by making application to the Records Access Officer. Such application shall be made through the form provided on the Warren County website and shall reasonably describe the record or records sought. A person requesting records should supply information regarding dates, file designations or any other information that may help to describe the records sought.

(2) Requests for access to records may be submitted to the Records Access Officer. Any request received after 4:30 p.m. is deemed to have been received on the next workday. Upon the receipt of an application in the proper form and at the appropriate time, the Records Access Officer shall cause a search to be made for the requested record. Within five business days of receipt of a FOIL request, the following actions will be taken by the Records Access Officer or his or her designee:

(a) Produce the record(s) for inspection at the Records Access Officer's office or send the requested records to the applicant (and if so requested and upon payment of the appropriate fee, make and certify a copy of the record).

(b) Deny the request as provided in § III.081 of these regulations, providing the reason for the denial and sending a copy of such denial to the County Attorney.

(c) Partially grant and partially deny the request.

(d) Advise the applicant that the record(s) are not in the custody of that specific department, but may be in the custody of another specified department or may be available on the Warren County website or other site on the internet.

(e) Certify that the records cannot be located after diligent search.

(f) Acknowledge receipt of the request, setting an approximate date for a full response and seeking clarification if the request is overly voluminous or unspecific. If circumstances prevent a response within 20 workdays, a statement specifying the reasons for the inability to do so and a date certain must be supplied. The failure to comply with this time limit constitutes a denial which may be appealed.

(3) The Records Access Officer, in his or her discretion, may waive compliance with any formality prescribed by this section.

(C) Any person wishing to inspect and/or obtain a copy of a payroll record may make written application to the Fiscal Officer pursuant to the provisions of the above section of these regulations at the office of the Fiscal Officer at the Warren County Municipal Center, Lake George, New York. Upon receipt of such an application, the Fiscal Officer shall search for and produce for inspection the payroll record. If the applicant requests a copy of such payroll record, the Fiscal Officer shall provide him or her with one, upon payment of the appropriate fee.

(Res. 77 of 1978, passed - -1978)

§ III.078 SUBJECT MATTER LIST.

(A) On behalf of the County of Warren, the custodian of records for each department pursuant to III.077 (A)(2) above shall maintain and make available for inspection and copying at their office a current list, reasonably detailed by subject matter, of all records in the possession of the department, whether or not available under N.Y. Pub. Off. Law Article 6. Such list shall be in conformity with such regulations as may be promulgated by the Committee on Open Government. Any person desiring a copy of such list may request a copy thereof personally, by mail or through the Warren County website and he or she shall be supplied with one copy.

(B) Each county department shall maintain:

(1) A record setting forth the name, public office address, title and salary of every officer or employee of the department; and

(2) A reasonably detailed current list by subject matter, of all records in the possession of the department whether or not available under this article.

(Res. 77 of 1978, passed - -1978)

§ III.079 FEES.

(A) The fees for copies of records shall not exceed \$0.25 per photocopy not in excess of nine inches by 14 inches, or the actual cost of reproducing any other record except when a different fee is otherwise prescribed by law or pursuant to such general rules and regulations as may be promulgated by the Committee on Open Government and any additional fees that may be applicable pursuant to N.Y. Pub. Off. Law Article 6.

(B) Additionally, the Records Access Officer and/or County Attorney has the authority to redact portions of a record pursuant to N.Y. Pub. Off. Law Article 6 and do so prior to disclosure of the record by making a photocopy from which the proper redactions are made. If redaction must be made to an electronic record, and the record must be printed and/or copied several times prior to being produced in response to the FOIL request, the standard copying fee will be charged.

(C) Further fees may be charged based on the actual cost of reproduction as set forth in N.Y. Pub. Off. Law § 87(1)(c), which may include the hourly salary of the lowest paid employee with the needed skill required to prepare a copy of the requested record in the event two or more hours are required as well as the actual cost of any storage device or media provided in response or if necessary, the actual cost of an outside professional to prepare a copy of a record.

(D) The agency shall inform the requestor of the estimated cost of copying, reproducing or preparing a copy and may require the fee to be paid prior to release of any records.

(Res. 77 of 1978, passed - -1978)

§ III.080 PREVENTION OF INVASIONS OF PRIVACY.

In accordance with the provisions of N.Y. Pub. Off. Law § 89 regarding the prevention of unwarranted invasion of personal privacy, the Records Access Officer and/or County Attorney may delete from any record identifying details, the disclosure of which would result in an unwarranted invasion of personal privacy prior to making such record available for inspection and/or copying. In the event that one or more deletion is made from any document, the Records Access Officer shall provide written notice of that fact to the person given access to the record.

(Res. 77 of 1978, passed - -1978)

§ III.081 DENIAL OF ACCESS TO RECORDS.

(A) In accordance with N.Y. Pub. Off. Law Article 6 as well as these regulations, the Records Access Officer shall make available for public inspection and copying a record as described herein, except that the Records Access Officer may deny access to a record or portions thereof that:

- (1) Is specifically exempted from disclosure by state or federal statute;
- (2) If disclosed would constitute an unwarranted invasion of personal privacy under the provisions of N.Y. Pub. Off. Law Article 6, § 89(2);
- (3) If disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- (4) Is a trade secret or is maintained for the regulation of commercial enterprise which if disclosed would cause substantial injury to the competitive position of the subject enterprise;
- (5) Is compiled for law enforcement purposes and which, if disclosed, would:
 - (a) Interfere with law enforcement investigations or judicial proceedings;
 - (b) Deprive a person of a right to a fair trial or impartial adjudication;
 - (c) Identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - (d) Reveal criminal investigative techniques or procedures, except routine techniques and procedures.
- (6) If disclosed would endanger the life or safety of any person;
- (7) Is an inter-departmental or intradepartmental material which is not:
 - (a) Statistical or factual tabulations or data;
 - (b) Instructions to staff that affect the public; or

(c) Final agency policy or determinations.

(8) Are examination questions or answers which are requested prior to the final administration of such questions.

(B) Denial of access to records shall be in writing stating the reason therefore and advising the applicant of the right to appeal as set forth below.

(Res. 77 of 1978, passed - -1978)

§ III.082 APPEALS.

Within 30 days of a denial, any person whose application to inspect and/or copy records has been denied pursuant to § III.081 of this regulation may appeal such denial to the Chairman of the Board of Supervisors at the Warren County Municipal Center, 1340 State Route 9, Lake George, New York. Such appeal shall be in writing and must set forth: the name and address of the applicant; the specific record(s) requested; the date of denial; and the reasons given for such denial. The Chairman shall, upon receipt of a written appeal, review the matter and in writing, either affirm, modify or reverse the denial. If the Chairman either affirms or modifies the denial, he or she shall, within ten workdays of receipt of the appeal, communicate his or her reasons for such affirmation or modification to the person making the appeal. N.Y. Pub. Off. Law Article 6 notes that in the event of a denial to access to a record, such person may appeal such determination under N.Y. Civ. Prac. L. & R. Article 78. Failure to respond to an appeal within the statutory time period shall constitute a denial of the appeal. The Committee on Open Government and the Warren County Board of Supervisors shall be furnished with copies of the application, and the underlying denial of the application as well as the appeal and the determination of that appeal.

(Res. 77 of 1978, passed - -1978)

§ III.083 SEVERABILITY.

If any provision(s) of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

(Res. 77 of 1978, passed - -1978)

§ III.084 EFFECTIVE DATE.

These regulations shall take effect immediately upon adoption by the Warren County Board of Supervisors.

(Res. 77 of 1978, passed - -1978)

Warren County Board of Supervisors

RESOLUTION No. 63 OF 2021

RESOLUTION INTRODUCED BY SUPERVISORS BEATY, BRAYMER, GERAGHTY, THOMAS, MAGOWAN, SHEPLER, HOGAN, DICKINSON, SMITH, FRASIER, DRISCOLL, DIAMOND AND CONOVER

RESOLUTION AMENDING THE WARREN COUNTY FOIL POLICY AND AUTHORIZING THE PRIOR CHAIRS OF THE BOARD OF SUPERVISORS TO DECIDE AND SIGN FOIL APPEALS WHEN THERE IS A CONFLICT OF INTEREST WITH THE FOIL APPEALS OFFICER

WHEREAS, Resolution No. 346 of 2018 sets the Warren County Freedom of Information Law (FOIL) Policy, and

WHEREAS, §III.082 “APPEALS” designates the Chair of the Warren County Board of Supervisors as the appeals officer, and

WHEREAS, no other person is designated as an alternate to decide and sign appeals if the Chair of the Board of Supervisors has a conflict, now, therefore, be it

RESOLVED, that the Warren County FOIL Policy is hereby amended to identify the prior Chairs of the Board of Supervisors, in order of reverse succession, to decide and sign FOIL appeals when the Chair has a conflict, and be it further

RESOLVED, that in the event of a conflict of interest, the Chair of the Board, as FOIL Appeals Officer, shall submit in writing to the Clerk of the Board a statement identifying such conflict.