

UNIVERSITY OF MICHIGAN

Freedom of Information Act Processing

(Effective date January 17, 2019)

Summary

Section 1 of the Michigan Freedom of Information Act (“FOIA” or “the statute”) provides, “It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.” To that end, all people, excluding prisoners, are allowed to file FOIA requests with the University of Michigan (“the University”). A requester must simply file a request in writing with the University’s FOIA Office, and the University will begin processing his or her request.¹

The University, in its initial response, will do one of the following within the time frame permitted by the statute: grant the request, partially grant the request, deny the request, inform the requester that additional time is needed, require a fee deposit prior to further processing, or inform the requester that the requested record has not been sufficiently described. If a request is denied or partially denied, the University will explain why the documents have not been released and inform the requester of his or her challenge and appeal options.

A fee deposit will be required when processing a request will require significant University employee time and resources. The University will notify the requester of the estimated cost and provide a nonbinding, best efforts estimate of the time it will take to complete the processing of the request. It is possible that after further processing of the request, the University will determine that the cost of processing the request is significantly less or greater than the estimated cost. If that is the case, the University will notify the requester to allow the requester to determine whether and how he or she wants to proceed with the request.

After the University receives a required deposit, it will make every effort to provide the requested documents within the time estimate provided. Requesters must understand, however, that at any given time, the University is processing multiple requests and cannot devote all of its time to one particular request.

If a requester feels that he or she was wrongly denied responsive documents, he or she may appeal to the Office of the President of the University of Michigan or file a civil action. If a requester believes that the University has required a fee that exceeds the amount permitted under the Procedures and Guidelines, he or she may file a civil action. Requesters also are always free to contact the FOIA Office with any questions about the processing of their requests.

The University will prepare and maintain on its website an annual report documenting information about the volume of FOIA requests received by the University, the fees charged by the University in connection with the FOIA requests it receives, and the University’s average response times to the FOIA requests it receives.

The University has implemented an internal tracking system to determine the status of pending FOIA requests and monitor length-of-response periods.

Detailed Procedures and Guidelines follow.

University of Michigan FOIA Procedures and Guidelines

¹ Verbal requests for information are not FOIA requests for purposes of these Procedures and Guidelines. If a verbal request for information is received by a University employee who knows that the information is available on the University’s website, the employee, where practicable, will inform the requester about the University’s pertinent website address.

1. How to submit a FOIA request to the University

- a. A FOIA request must be submitted in writing to the University's FOIA Office. The request may be transmitted in hard copy, by email, or by facsimile.
- b. The University's FOIA Office address is: University of Michigan FOIA Office, 3300 Ruthven Building, 1109 Geddes Ave., Ann Arbor, MI 48109-1079. The email address is foia-email@umich.edu. The fax number is 734-763-1399.
- c. A request should describe the record(s) sought sufficiently to enable the University to find the record(s), and include the requesting person's complete name, postal address, and contact information.
- d. Requests should state that they are submitted pursuant to the Michigan Freedom of Information Act.
- e. Requests received electronically are deemed received the next business day. A business day is defined as Monday through Friday, exclusive of holidays and institutional closure days.
- f. If a request is delivered to the FOIA Office junk mail folder, the request will be deemed received one business day after the FOIA Office becomes aware of the request. The FOIA Office will check the junk mail folder at least once per week.

2. Responses to FOIA requests to the University

- a. Initial responses to FOIA requests will be provided within the statutory 5 and 15-day response periods as outlined below.
- b. Within five (5) business days of the FOIA Office receiving the request, the University will provide a response that will consist of one or more of the following:
 - i. A granting of the request.
 - ii. A partial granting of the request, and a partial denial because some or a portion of the records do not exist, are not in the possession of the University, and/or are exempt from disclosure.
 - iii. A complete denial of the request because all of the records do not exist, are not in the possession of the University, and/or are exempt from disclosure.
 - iv. A notice that more time is needed to process the request.
 1. If more time is needed, the University will send out a follow up response within 10 business days of the initial response deadline.
 - v. A notice that a fee deposit is required prior to further processing.
 1. If a fee deposit is required, the University will include in its response a non-binding, best efforts estimate regarding the time it will take to provide the records to the requester.
 - vi. A notice that the record(s) sought has (have) not been sufficiently described to enable the University to locate the record(s).
- c. The response will state the FOIA exemptions under which any information and/or documents are withheld, if applicable.
- d. If any part of a request for records is denied for any reason, the response will set forth the procedures for challenging and/or appealing that denial.
- e. If the University's initial five day response is made under section b.iv. above, by the end of the additional 10 business day period, the University will provide a response that consists of one or more of the responses indicated in sections b.i – iii, v, or vi.
- f. The University shall strive to respond fully to at least 75% of all FOIA requests received within 15 business days.

3. Deposit Requirements

- a. A fee deposit will be required when the processing of a request will result in fees equal to or greater than \$50.00.²
- b. The required deposit will equal up to 50% of the estimated cost of fulfilling the request as calculated at the time of the initial response.
- c. If the University requires a deposit, it will not process the FOIA request further until the deposit is paid.
- d. A person who makes a FOIA request for which a deposit is required may withdraw that FOIA request without charge instead of paying the required deposit.
- e. If the University does not receive the deposit within 48 days after the date the fee deposit notice is sent, the request shall be considered abandoned.
- f. If, after receipt of the deposit and further processing of the request, the University learns that the processing costs will be significantly different from the estimated costs, the University will so notify the requester. Where the actual effort to search for, review and separate exempt material significantly exceeds the original estimate, the University will notify the requester. The requester may choose to receive a revised fee deposit notice, or limit his/her original request to those records which may be processed within the time stated in the original fee estimate.
- g. The University will treat multiple concurrent FOIA requests on the same topic(s) and/or regarding the same recordkeeper(s) and from the same person as one FOIA request for purposes of determining whether the fee is less than \$50.00.
- h. Where a requester who has not paid the final fee for the processing of an earlier request files a new FOIA request, the University may require a deposit of all (100%) of the estimated fees for processing the subsequent request prior to processing the subsequent request.

4. Calculation and Payment of Fees

- a. Fees are calculated by adding together the following costs³:
 - i. The labor costs⁴ for searching for, locating, and examining responsive records.
 - ii. The labor costs⁴ for review, separation, and deletion of exempt information from non-exempt information.
 - iii. The cost of non-paper physical media, if used.
 - iv. The cost per copy of paper copies, not to exceed \$.10/page for standard 8 ½ x 11 inch paper.
 - v. The labor costs⁴ directly associated with duplication or publication, which may include copying to non-paper media.
 - vi. The cost of mailing.
- b. When the University completes the response to the FOIA request, the final fees will be itemized and the balance due will be requested.
- c. The University will deliver the responsive nonexempt records upon receipt of the balance due.
- d. The University's decision to deny access to public records sought by a FOIA request because those records are, in whole or in part, exempt from disclosure does not excuse the person who files that FOIA request from payment of fees for the work undertaken by the University in response to that request.

² The University has determined, consistent with FOIA, that failure to charge fees in situations where the fees would be equal to or greater than \$50.00 would result in unreasonably high costs to the University.

³ A copy of the standard form that the University uses for fee itemization, with additional explanatory information, is attached to these Procedures and Guidelines.

⁴ Labor costs will be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. The labor is charged at the hourly rate of the lowest paid University employee capable of doing the work, plus fringe benefits, if applicable. If it is not possible for the work to be done by a University employee, the University will contract the work out and charge per the provisions of the statute.

- e. The University may waive or reduce the fees it is authorized to charge if it determines that a waiver or reduction of the fee is in the public interest because responding to the FOIA request can be considered as primarily benefiting the general public.
- f. Fee reductions or waivers are required in certain instances involving proven indigence or non-profit organizations. The University will apply these reductions or waivers in accordance with the statute.

5. Procedures for Challenge and Appeal

- a. If the University denies a request in whole or in part, the requester may:
 - i. Submit an appeal to the Office of the President of the University, in writing. The email address is: presoff@umich.edu. The mailing address is: Office of the President, Ruthven Bldg. Suite 3190, 1109 Geddes Ave., Ann Arbor, Michigan 48109-1079. The appeal must specifically use the word “appeal” and identify the reason(s) the requester seeks reversal of the denial. The Office of the President must respond to the appeal within ten (10) business days by doing one of the following:
 - 1. Reversing the FOIA Officer’s decision.
 - 2. Upholding the FOIA Officer’s decision.
 - 3. Reversing in part and upholding in part the FOIA Officer’s decision.
 - 4. Issuing a notice of extension for not more than ten (10) additional business days, to be followed by a further response within the allowable ten (10) additional business days.
 - ii. Commence a civil action in the Court of Claims within 180 days after the University’s final determination to deny a request.
- b. If a requester believes that the University has required payment of a fee that exceeds the amount permitted under these Procedures and Guidelines, he or she may commence an action in the Court of Claims for a fee reduction within 45 days after receiving the notice of the required fee.
- c. If a requester has questions regarding any FOIA response, including estimated fees or actual fees assessed, the requester should not hesitate to contact the FOIA Office by email (foia-email@umich.edu) or telephone 734-763-5082.

FOIA FEE ESTIMATE ITEMIZATION FORM					
Category of Costs/Description	Hourly Wage	Benefits % Multiplier Used*	Hourly Wage with Benefits	Estimated Time (Hours)	Amount
4 (1) (a) Searching for, locating and examining responsive records <ul style="list-style-type: none"> Charged at hourly wage of lowest-paid employee capable of searching for, locating and examining the public record, regardless of whether that person is available or who performs the labor Estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down 					
4 (1) (b) Review directly associated with the separating and deleting of exempt from nonexempt information <ul style="list-style-type: none"> Charged at hourly wage of lowest-paid employee capable of separating and deleting exempt from nonexempt information, regardless of whether that person is available or who actually performs the labor Labor costs under this subdivision estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down Shall not charge for labor under this section if Public Body knows or has reason to know that it previously redacted the public record in question, and the public record is still in the Public Body's possession 					
4 (1) (c) Nonpaper physical media costs <ul style="list-style-type: none"> Actual and most reasonably economical cost of computer discs, computer tapes, or other digital or similar media Requestor may stipulate that records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided in lieu of paper copies Does not apply if Public Body lacks the technological capability necessary to provide records on the particular nonpaper physical media stipulated 					
4 (1) (d) Cost of paper copies (not including labor) <ul style="list-style-type: none"> Calculated as total cost per sheet of paper, itemized to show cost per sheet and number of sheets provided Shall not exceed 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14 inch paper Shall utilize most economical means available, including double-sided printing, if cost saving and available 					
4 (1) (e) Duplication or publication (Labor) <ul style="list-style-type: none"> Includes making paper copies, making digital copies, or transferring digital public records to be given to requestor on nonpaper media or electronically Charged at hourly wage of lowest-paid employee capable of necessary duplication or publication, regardless of whether that person is available or who performs the labor Estimated and charged in time increments of the Public Body's choosing, with all partial time increments rounded down 					
4 (1) (f) Cost of mailing <ul style="list-style-type: none"> Actual cost of mailing, for sending records in a reasonably economical and justifiable manner Shall not charge more for expedited shipping or insurance unless stipulated by requestor, may charge for least expensive form of postal delivery confirmation 					
ESTIMATE TOTAL					\$0.00
50% Deposit Required					
<p>*The Public Body may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used. The Public Body shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted in this detailed itemization.</p> <p>**The University caps labor charges at \$50.00 per hour.</p>					

FOIA FINAL COSTS ITEMIZATION FORM

<i>Category of Costs/Description</i>	<i>Hourly Wage</i>	<i>Benefits % Multiplier Used*</i>	<i>Hourly Wage with Benefits</i>	<i>Time (Hours)</i>	<i>Amount</i>
4 (1) (a) Searching for, locating and examining responsive records <ul style="list-style-type: none"> Charged at hourly wage of lowest-paid employee capable of searching for, locating and examining the public record, regardless of whether that person is available or who performs the labor Estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down 					
4 (1) (b) Review directly associated with the separating and deleting of exempt from nonexempt information <ul style="list-style-type: none"> Charged at hourly wage of lowest-paid employee capable of separating and deleting exempt from nonexempt information, regardless of whether that person is available or who actually performs the labor Labor costs under this subdivision estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down Shall not charge for labor under this section if Public Body knows or has reason to know that it previously redacted the public record in question, and the public record is still in the Public Body's possession 					
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4 (1) (f) Cost of mailing <ul style="list-style-type: none"> Actual cost of mailing, for sending records in a reasonably economical and justifiable manner Shall not charge more for expedited shipping or insurance unless stipulated by requestor, may charge for least expensive form of postal delivery confirmation 					
TOTAL FINAL COSTS					\$0.00
LESS DEPOSIT RECEIVED					
BALANCE DUE					\$0.00
<p><i>*The Public Body may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used. The Public Body shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted in this detailed itemization.</i></p> <p><i>**The University caps labor charges at \$50.00 per hour.</i></p>					