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## WHITE LAKE COMMUNITY LIBRARY WRITTEN PUBLIC SUMMARY OF FOIA PROCEDURES AND GUIDELINES

Consistent with Public Act 563 of 2014 and Public Act 523 of 2018 amending the Michigan Freedom of Information Act (FOIA), the following is the Written Public Summary of the White Lake Community Library's FOIA Procedures and Guidelines relevant to the general public.

### 1. How do I submit a FOIA request to the White Lake Community Library?

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the White Lake Community Library (Library) must be submitted in writing.
- A request must sufficiently describe a public record so as to enable the Library to find it.
- A request must include the requester's name, address, and contact information.
  - If the requester is not an individual, the request must include the name, address, and contact information of the individual acting as the requester's agent.
  - The address must be written in compliance with United States Postal Service addressing standards.
  - Contact information must include a valid telephone number or electronic mail address.
  - This requirement does not apply to an individual who qualifies as indigent under Section 4(2)(a) of FOIA.
- No specific form to submit a written request is required.
- Written requests can be made in person by delivery to the Library in person or by mail to:  
*White Lake Community Library*  
*Attn: FOIA Coordinator*  
*3900 White Lake Dr.*  
*Whitehall, MI 49461*
- A request may also be submitted by e-mail. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line and be sent to [whi@llcoop.org](mailto:whi@llcoop.org).

*Note: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for a public record.*

### 2. What kind of response can I expect to my request?

- Within 5 business days of receipt of a FOIA request, the Library will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day. The Library will respond to your request in one of the following ways:
  - Grant the request.
  - Issue a written notice denying the request.
  - Grant the request in part and issue a written notice denying in part the request.
  - Issue a notice indicating that due to the nature of the request the Library needs an additional 10 business days to respond.

- Issue a written notice indicating that the public record requested is available at no charge on the Library's website.
- If the request is granted, or granted in part, the Library will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the Library will require a deposit before processing the request.

### **3. What are the Library's fee deposit requirements?**

- If the Library has made a good faith calculation that the total fee for processing the request exceeds \$50.00, the Library will require that you provide a deposit in the amount of 50% of the total estimated fee. When the Library requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request following receipt by the Library of your deposit.
- If the Library receives a request from a person who has not paid the Library for copies of public records made in fulfillment of a previously granted written request, the Library will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request when all of the following conditions exist:
  - the final fee for the prior written request is not more than 105% of the estimated fee;
  - the public records made available contained the information sought in the prior written request and remain in the Library's possession;
  - the public records were made available to the individual, subject to payment, within the time frame estimated by the Library to provide the records;
  - 90 days have passed since the Library notified the individual in writing that the public records were available for pickup or mailing;
  - the individual is unable to show proof of prior payment to the Library; and
  - the Library has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The Library will not require the 100% estimated fee deposit if any of the following apply:
  - the person making the request is able to show proof of prior payment in full to the Library;
  - the Library is subsequently paid in full for all applicable prior written requests; or
  - 365 days have passed since the person made the request for which full payment was not remitted to the Library.
- When a deposit is required:
  - The library will provide a written notice of deposit to the requester.
  - The notice will include the date by which the deposit must be received, which is 45 days from the date the requester received the notice.
  - The notice of deposit is considered received by the requester 3 days after it is sent, regardless of the means of transmission.
  - If the library has not received the deposit by the due date, and the requester has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requester.

### **4. How does the Library calculate FOIA processing fees?**

- A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Library because of the nature of the request in the particular instance, and the Library specifically identifies the nature of the unreasonably high costs.
- The Michigan FOIA statute permits the Library to assess and collect a fee for six designated processing components. The Library may charge for the following costs associated with processing a request:
  - Labor costs associated with searching for, locating and examining a requested public record.
  - Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
  - The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media.
  - The cost of duplication or publication, not including labor, of paper copies of public records.
  - Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to nonpaper physical media or through the Internet.
  - The cost to mail or send a public record to a requestor.

#### Labor Costs

- All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down.
- Labor costs will be charged at the hourly wage of the lowest-paid Library employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- Non-paper Physical Media
  - The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
  - This cost will only be assessed if the Library has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- Paper Copies
  - Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
  - The Library may provide records using double-sided printing, if cost-saving and available.
- Mailing Costs
  - The cost to mail public records will use a reasonably economical and justified means.
  - The Library may charge for the least expensive form of postal delivery confirmation.
  - No cost will be made for expedited shipping or insurance unless requested.

#### 5. How do I qualify for a reduction of the processing fees?

- The Library may waive or reduce the fee associated with a request when the Library determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public.

- The Library will waive the first \$20.00 of the processing fee for a request if you submit an affidavit stating that you are:
  - indigent and receiving specific public assistance; or
  - if not receiving public assistance, stating facts demonstrating an inability to pay because of indigency.
- You are not eligible to receive the \$20.00 waiver if you:
  - have previously received discounted copies of public records from the Library twice during the calendar year; or
  - are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- The Library will waive the fee for a nonprofit organization which meets all of the following conditions:
  - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
  - the request is made directly on behalf of the organization or its clients;
  - the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
  - the request is accompanied by documentation of the organization's designation by the State

#### 6. How may I challenge the denial of a public record or an excessive fee?

- Appeal of a Denial of a Public Record  
 If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may file an appeal of the denial with the Library Board, as the governing body of the Library. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons you are seeking a reversal of the denial. The Library Board shall designate the FOIA Coordinator to receive the written appeal and to immediately notify the Library Board President of its receipt.

The Library Board is not considered to have received a written appeal until the first regularly scheduled meeting of the Library Board following submission of the written appeal. Within 10 business days of receiving the appeal the Library Board President will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reverse the disclosure denial in part and uphold the disclosure denial in part.

Whether or not you submitted an appeal of a denial to the Library Board, you may file a civil action in Muskegon County Circuit Court within 180 days after the Library Board's final determination to deny your request. Should you prevail in the civil action, the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the Library acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1000.00

- Appeal of an Excessive FOIA Processing Fee  
 If you believe that the fee charged by the Library to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a fee reduction to the Library Board. The appeal must be in writing, specifically stating the word "appeal" and identify how the required fee exceeds the amount permitted.

The Library Board is not considered to have received a written appeal until the first regularly scheduled meeting of the Library Board following submission of the written appeal. Within 10 business days after receiving the appeal, the Library Board will respond in writing by:

- waiving the fee;
- reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
- issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Library Board President will respond to the written appeal.

Within 45 days after receiving notice of the Library Board's determination of the processing fee appeal, you may commence a civil action in Muskegon County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the Library acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.00.

**Need more details or information?**

This is only a summary of the White Lake Community Library's FOIA Procedures and Guidelines. For more details and information, copies of the White Lake Community Library's FOIA Procedures and Guidelines are available at no charge at the Library office and on the Library's website:  
[www.whitelakelibrary.michlibrary.org](http://www.whitelakelibrary.michlibrary.org)



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## **LIBRARY'S FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

### **Preamble: Statement of Principles**

It is the policy of the White Lake Community Library (Library) that all persons, consistent with the Michigan Freedom of Information Act (FOIA), 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 employees. The people shall be informed so that they fully participate in the democratic process.

The Library's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

The Library acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The Library acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

The Library will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The Library's policy is to disclose public records consistent with and in compliance with State law.

### **Section 1: General Policies**

The Library Board of Trustees, acting pursuant to the authority at MCL 15.236, designates the Library Director as the FOIA Coordinator. He or she is authorized to designate other Library staff to act on his or her behalf to accept and process written requests for the Library's public records and approve denials.

If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail and delivered to a Library spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

The FOIA Coordinator may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.

The Library is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other Library staff members are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all written requests for public records received by the Library on file for a period of at least one year.

## **Section 2: Requesting a Public Record**

A person requesting to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the White Lake Community Library must do so in writing. The request must sufficiently describe a public record so as to enable Library personnel to identify and find the requested public record.

A request must include the requester's name, address, and contact information. If the requester is not an individual, the request must include the name, address, and contact information of the individual acting as the requester's agent. The address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. This requirement does not apply to an individual who qualifies as indigent under Section 4(2)(a) of FOIA.

No specific form to submit a request for a public record is required. Written requests for public records may be submitted in person or by mail to the Library office. Requests may also be submitted electronically by facsimile and e-mail. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, electronically mailed or otherwise provided to him or her in lieu of paper copies. The Library will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued or disseminated by the Library on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

A person who makes a verbal, non-written request for information believed to be available on the Library's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.

## **Section 3: Processing a Request**

Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request, the Library will issue a response. If a request is received by facsimile, e-mail or other electronic transmission, the request is deemed to have been received on the following business day. The Library will respond to the request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating that due to the nature of the request the Library needs an additional 10 business days to respond. Only one such extension is permitted.
- Issue a written notice indicating that the public record requested is available at no charge on the Library's website.

If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request. A copy of these Procedures and Guidelines shall be provided to the requestor with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and its Written Public Summary are maintained on the Library's website, then a website link to those documents may be provided in lieu of providing paper copies.

If the cost of processing a FOIA request is \$50 or less, the requestor will be notified of the amount due and where the documents can be obtained.

If based on a good faith calculation by the Library, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, the Library will require a good-faith deposit before processing the request. In making the request for a good-faith deposit, the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by the Library to process the request and also provide a best efforts estimate of a time frame it will take the Library to provide the records to the requestor. The best efforts estimate shall be nonbinding on the Library, but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the Library; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the office of the Library Manager or seek judicial review in the Muskegon County Circuit Court; and
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator.

If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

The Library shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect Library records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal Library operations.

The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

#### **Section 4: Fee Deposits**

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation by the Library, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.



If a request for public records is from a person who has not fully paid the Library for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:

- the final fee for the prior written request is not more than 105% of the estimated fee;
- the public records made available contained the information sought in the prior written request and remain in the Library's possession;
- the public records were made available to the individual, subject to payment, within the time frame estimated by the Library to provide the records;
- 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- the individual is unable to show proof of prior payment to the Library; and
- the FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:

- the person making the request is able to show proof of prior payment in full to the Library;
- the Library is subsequently paid in full for the applicable prior written request; or
- 365 days have passed since the person made the request for which full payment was not remitted to the Library.

When a deposit is required, the library will provide a written notice of deposit to the requester. The notice of deposit will include the date by which the deposit must be received, which is 45 days from the date the requester received the notice. The notice of deposit is considered received by the requester 3 days after it is sent, regardless of the means of transmission. If the library has not received the deposit by the due date, and the requester has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requester.

### **Section 5: Calculation of Fees**

A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Library because of the nature of the request in the particular instance, and the Library specifically identifies the nature of the unreasonably high costs.

The following factors shall be used to determine an unreasonably high cost to the Library:

- The particular request incurs costs greater than incurred from the typical or usual request received by the Library.
- Volume of the public record requested.
- Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
- Whether public records from more than one Library department or various Library offices is necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The Library may charge for the following costs associated with processing a FOIA request:

- Labor costs directly associated with searching for, locating and examining a requested public record.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
- The actual cost of computer discs, computer tapes or other digital or similar media.
- The cost of duplication of publication, not including labor, of paper copies of public records.
- The cost of labor associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means.
- The actual cost of mailing or sending a public record.

Labor costs will be calculated based on the following requirements:

- All labor costs will be estimated and charged in 15 minute increments with all partial time increments rounded down†.
- Labor costs will be charged at the hourly wage of the lowest-paid Library employee capable of doing the work in the specific fee category, regardless of who actually performs work.‡
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The Library may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs until agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disks, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will only be assessed if the Library has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- In order to ensure the integrity and security of the Library's technological infrastructure, the Library will procure any requested non-paper media and will not accept non-paper media from the requestor.

The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for nonstandard sized sheets of paper will reflect the actual cost of reproduction.
- The Library may provide records using double-sided printing, if cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The Library may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless requested.

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† The cost of labor directly associated with duplication, publication or transferring records to non-paper physical media can be charged in time increments of the public body's choosing with all partial increments rounded down.

‡ If using contract or outside labor to separate and delete exempt material from non-exempt material, the public body must clearly note the name of person or firm who does the work and the total labor cost may not exceed an amount 6 times the state minimum hourly wage, which is currently \$8.15.

If the FOIA Coordinator does not respond to a written request in a timely manner, the following shall be required:

- Reduce the labor costs by 5% for each day the Library exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
  - The late response was willful and intentional.
  - The written request, within the first 250 words of the body of a letter facsimile, e-mail or e-mail attachment, conveyed a request for information
  - The written request included the words, characters, or abbreviations for "freedom of information", "information", "FOIA", "copy" or a recognizable misspelling of such, or legal code reference to MCL 15. 231 et seq or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form.

### **Section 6: Waiver of Fees**

The cost of the search for and copying of a public record may be waived or reduced if, in the sole judgment of the FOIA Coordinator, a waiver or reduced fee is in the public interest because such can be considered as primarily benefitting the general public.

The FOIA Coordinator will waive the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- indigent and receiving specific public assistance; or
- if not receiving public assistance stating facts demonstrating an inability to pay because of indigency.

An individual is not eligible to receive the waiver if:

- the requestor has previously received discounted copies of public records from the Library twice during the calendar year; or
- the requestor requests information in connection with other persons who are offering or providing payment to make the request.

An affidavit is a sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

A nonprofit organization designated to by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 200 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

- is made directly on behalf of the organization or its clients;
- is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931;
- is accompanied by documentation of its designation by the State.

### **Section 7: Appeal of a Denial of a Public Record**

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial with the Library Board, as the governing body of the Library. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial. The Library Board shall designate the FOIA Coordinator to receive the written appeal and to immediately notify the head of the Library Board of its receipt.

Under section 10(3) of the FOIA, MCL 15.240(3), the Library Board is not considered to have received a written appeal until the first regularly scheduled meeting of the Library Board following submission of the written appeal.

Should the Library Board decide to consult with the Library's legal counsel on the appeal, it must comply with the time periods set forth in the FOIA for written responses as well as the provisions of the Michigan Open Meetings Act, 1976 PA 267, MCL 15.261 *et seq.* The Library board will respond in writing by:

- reversing the disclosure denial;
- upholding the disclosure denial; or
- reverse the disclosure denial in part and uphold the disclosure denial in part.
- Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the Library Board may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal.

Whether or not a requestor submitted an appeal of a denial to the Library Board, he or she may file a civil action in Muskegon County Circuit Court within 180 days after the Library Board's final determination to deny the request.

If the court determines that the public record is not exempt from disclosure, the court will award the appellant reasonable attorneys' fees, cost and disbursements. If the court determines that the appellant prevails only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs and disbursements.

If the court determines that the Library arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages in the \$1,000.

### **Section 8: Conflict with Prior FOIA Policies and Procedures; Effective Date**

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by the FOIA Coordinator or the Library Board, these Procedures and Guidelines are controlling. To the

extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by the FOIA Coordinator or the Library Board, the administrative rule promulgated by the FOIA Board is controlling.

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the FOIA Coordinator or the Library Board, and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law. The FOIA Coordinator shall inform the Library Board of any change to these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015.

## FOIA Fee Itemization Form

(Effective July 1, 2015)

Component	Cost Calculations	Total
<b>1. Labor Costs – Search, Location, and Examination of Records*</b>	<p>Enter the hourly wage of lowest paid employee capable of performing the search, location and examination  <div style="text-align: right;">\$_____ per hour</div></p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)  <div style="text-align: right;">_____%</div></p> <p>Multiply the hourly wage times the fringe benefit multiplier  <div style="text-align: right;">\$_____ x 1.____ = \$_____</div></p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)  <div style="text-align: right;">\$_____ + _____ = \$_____</div></p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment  <div style="text-align: right;">\$_____ / 4 = \$_____</div></p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate  <div style="text-align: right;">_____ x \$_____ = \$_____</div></p>	<p style="text-align: right;">\$_____</p>
<b>2. Employee Labor Costs – Redaction*</b>	<p>If performed by the public body's employee:  Enter the hourly wage of lowest paid employee capable of performing the redaction  <div style="text-align: right;">\$_____ per hour</div></p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)  <div style="text-align: right;">_____%</div></p> <p>Multiply the hourly wage times the fringe benefit multiplier  <div style="text-align: right;">\$_____ x 1.____ = \$_____</div></p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)  <div style="text-align: right;">\$_____ + _____ = \$_____</div></p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment  <div style="text-align: right;">\$_____ / 4 = \$_____</div></p>	

	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate  _____ x \$ _____ = \$ _____ \$ _____</p>	
<p><b>2. Contracted Labor Costs – Redaction*</b></p>	<p>If performed by Contracted Labor (Only permitted if the public body does not employ a person capable of redacting the records as determined by the FOIA Coordinator):  Name of person or firm contracted:  _____</p> <p>Enter the hourly rate charged by the contractor (may not exceed six (6) times the State minimum wage (i.e. \$8.15x6=\$48.90)  \$ _____ per hour</p> <p>Divide the hourly rate by four (4) to determine the charge per fifteen (15) minute increment  \$ _____ / 4 = \$ _____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate  _____ x \$ _____ = \$ _____ \$ _____</p>	
<p><b>3. Non-Paper Physical Media</b></p>	<p>Actual and most reasonably economical cost of:  Flash Drives \$ _____ x number used _____ = \$ _____  Computer Discs \$ _____ x number used _____ = \$ _____  Other Media \$ _____ x number used _____ = \$ _____</p>	<p>\$ _____</p>
<p><b>4. Paper Copies</b></p>	<p>Actual total incremental cost of duplication (not including labor) up to a maximum of 10 cents per page:  Letter paper (8 1/2" x 11")  number of sheets _____ x \$0.____ = \$ _____  Legal paper (8 1/2" x 14")  number of sheets _____ x \$0.____ = \$ _____  Actual cost of other types of paper:  Type of Paper: _____  number of sheets _____ x \$ _____ = \$ _____  Type of Paper: _____  number of sheets _____ x \$ _____ = \$ _____  (NOTE: Must print double-sided if available and costs less.)</p>	<p>\$ _____</p>
<p><b>5. Labor Cost – Duplication Copying, and transferring records to non-paper physical media</b></p>	<p>Enter the hourly wage of lowest paid employee capable of performing the duplication, copying, or transferring digital records to non-paper physical media  \$ _____ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor request the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)  _____ %</p> <p>Multiply the hourly wage times the fringe benefit multiplier  \$ _____ x 1. _____ = \$ _____</p>	

	<p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)</p> <p style="text-align: right;">\$ _____ + _____ = \$ _____</p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment</p> <p style="text-align: right;">\$ _____ / 4 = \$ _____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p style="text-align: right;">_____ x \$ _____ = \$ _____</p>	\$ _____
<b>6. Mailing</b>	<p>Actual cost of mailing records in a reasonable and economical manner:</p> <p style="text-align: right;">Cost of mailing: \$ _____</p> <p>Cost of least expensive form of postal delivery confirmation:</p> <p style="text-align: right;">\$ _____</p> <p>Cost of expedited shipping or insurance only if specifically stipulated by the requestor:</p> <p style="text-align: right;">\$ _____</p>	\$ _____
		Subtotal \$ _____
<b>Waivers and Reductions</b>	<p>Subtract any Fee Waiver or Reduction: \$20.00 for indigency or nonprofit organization as further described in the Public Body's procedures and guidelines.</p> <p>Any amount determined by the Public Body due to the search and furnishing of the Public Record determined to be in the public interest. \$ _____</p> <p>The reduction amount due to the late response of the Public Body. 5% of fee x _____ days late = _____% reduction (maximum reduction is 50%)</p>	-\$ _____
<b>Deposit</b>	Subtract any good-faith deposit received: \$ _____ -\$ _____	
	<b>Total Due</b>	<b>\$ _____</b>

\*Note: Labor costs for search, location, examination and redaction (categories 1 and 2 on the itemization form) may not be charged unless the failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs.

The Court of Appeals has interpreted this provision to require that the determination be made relative to the usual or typical costs incurred by the public body in responding to FOIA requests. The key factor in determining whether the costs are "unreasonably high" is the extent to which the particular request differs from the usual request. *Bloch v Davison Cmty Schools*, (Mich.App. Apr. 26, 2011), 2011 WL 1564645.