

WAYNE STATE UNIVERSITY

FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

Effective July 1, 2015

Summary

Michigan's Freedom of Information Act ("FOIA") recognizes that the public is "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."¹ As a public institution, Wayne State University is subject to the FOIA and committed to its principles.

A request for records under FOIA must be in writing. Send the request to the University's FOIA Coordinator by either regular mail to Wayne State University, Office of the General Counsel, 656 W. Kirby, Suite 4249, Detroit, MI 48202., or email to foia@wayne.edu. After receipt, the University will begin processing the request.²

The University, in its initial response, will do one of the following within the timeframe permitted by the statute: grant the request, partially grant the request, deny the request, inform the requestor that additional time is needed, require a fee deposit prior to further processing, or inform the requestor 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 requestor of his or her challenge and appeal options. Under FOIA, a statement that requested documents do not exist is treated as a denial.

A fee deposit will be required when processing a request will require significant University employee time and resources. The University will notify the requestor of the estimated cost and provide a non-binding, 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

¹ M.C.L.A. 15.231.

² 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 requestor about the University's website address.

processing the request is significantly less or greater than the estimated cost. If that is the case, the University will notify the requestor to allow the requestor 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 reasonable effort to provide the requested documents within the time estimate.

If a requestor feels that he or she was wrongly denied responsive documents, he or she may appeal to the Office of the President of the University or file a civil action in the Michigan Court of Claims. If a requestor 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 in the Court of Claims. Requestors are also always free to contact the FOIA Coordinator with any questions about the processing of their requests. In many instances, potential disagreements over a FOIA request may be avoided simply by more carefully focusing or narrowing the request.

More detailed Procedures and Guidelines follow.

Procedures and Guidelines

1. How to Submit a FOIA Request to the University

- a. A FOIA request must be in writing and should be sent to the FOIA Coordinator.
- b. The request may be transmitted in hard copy, by email, or by facsimile. The FOIA Coordinator's address is Wayne State University, Office of the General Counsel, 656 W. Kirby, Suite 4249, Detroit, MI 48202. The email address is foia@wayne.edu.
- c. A request should describe the requested record sufficiently to enable the University to find the record and should provide the requestor's 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 an electronic request is delivered to the FOIA Coordinator's junk mail folder, the request will be deemed received one business day after the FOIA Coordinator becomes aware of the request. The FOIA Coordinator will check the junk mail folder at least once per week.

2. Response to a FOIA Request to the University

- a. The University's initial response to a FOIA request will be sent within five (5) business days of the FOIA Coordinator receiving the request.
- b. A response 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.
 - 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 requestor.
 - vi. A notice that the records sought have not been sufficiently described to enable the University to locate the records.
- c. The response will state the FOIA exemptions under which any records 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. Under existing University policy, all denials of a FOIA request must be approved by the Office of the General Counsel.

3. Deposit Requirements

- a. A fee deposit will be required when the cost of processing the request is estimated to equal to or exceed \$50.00.³

³ 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.

- 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. 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 requestor. Where the actual time to search for, review and separate exempt material significantly exceeds the original estimate, the University will notify the requestor.
- e. 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. Failure to pay the deposit will be deemed a withdrawal of the FOIA request.
- f. The University will treat multiple concurrent FOIA requests on the same topic and/or regarding the same record keeper and from the same person or entity as one FOIA request for purposes of determining whether the fee is below \$50.00.
- g. Where a requestor 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 costs⁴:
 - i. The labor costs⁵ for searching for, locating, and examining responsive records
 - ii. The labor costs⁵ 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

⁴ A copy of the standard form that the University uses for fee itemization, with additional explanatory information, is attached to these Procedures and Guidelines.

⁵ 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.

- v. The labor costs directly associated with duplication or publication, which may include copying to non-paper media
 - vi. The cost of mailing.
- b. Final fees for processing a FOIA request will be billed when the request has been completely processed. An invoice will be provided.
- c. The University reserves the right to require payment in full of all fees incurred in processing a FOIA request before delivering the final, responsive documents. Otherwise, payment is due within thirty (30) days of the invoice date.
- 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.
- 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 non-profit organizations or proven indigents. 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 requestor may:
 - i. Submit a written appeal to the Office of the President. The appeal must specifically use the word "appeal" and identify the reason the requestor seeks reversal of the denial. The Office of the General Counsel, as the President's designee, will respond to the appeal within ten (10) business days by doing one of the following:
 1. Reversing the FOIA Coordinator's decision
 2. Upholding the FOIA Coordinator's decision
 3. Reversing in part and upholding in part the FOIA Coordinator's decision
 4. Issuing a notice of extension for not more than ten (10) additional business days.

- ii. Commence a civil action in the Court of Claims within one hundred eighty (180) days after the University's final determination to deny a request.
- b. If a requestor 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 forty-five (45) days after receiving the notice of the required fee.
- c. If a requestor has questions regarding any FOIA response, including estimated fees or actual fees assessed, the requestor should not hesitate to contact the FOIA Coordinator by email (foia@wayne.edu) or telephone (313-577-2268).

FOIA FEE ESTIMATE ITEMIZATION FORM

<i>Category of Costs/Description</i>	<i>Hourly Wage</i>	<i>Benefits % Multiplier Used*</i>	<i>Hourly Wage with Benefits</i>	<i>Estimated Time (Hours)</i>	<i>Amount</i>
<p>Searching for, locating and examining responsive records</p> <ul style="list-style-type: none"> Charged at hourly wage of lowest-paid employee capable of searching for, locating and/or examining the public record, regardless of who performs the labor Estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down 					
<p>Review directly associated with the separating and deleting of exempt from nonexempt information</p> <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 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 Does not include a charge for a known previously FOIA-redacted public record that is still in the University's possession 					
<p>Duplication or publication</p> <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 who performs the labor Estimated and charged in time increments of the University's choosing, with all partial time increments rounded down 					
<p>Nonpaper physical media costs</p> <ul style="list-style-type: none"> Actual and most reasonably economical cost of computer discs, computer tapes, or other digital or similar media 					
<p>Cost of paper copies (not including labor)</p>					
<p>Cost of mailing</p> <ul style="list-style-type: none"> Actual cost of mailing, for sending records in a reasonably economical and justifiable manner and for least expensive form of postal delivery confirmation Does not include charge for expedited shipping or insurance unless stipulated by requestor 					
ESTIMATE TOTAL					

**The University 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 University 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.*

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>
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/or examining the public record, regardless of who performs the labor Estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down 					
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 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 Does not include a charge for a known previously FOIA-redacted public record that is still in the University's possession 					
Duplication or publication <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 who performs the labor Estimated and charged in time increments of the University's choosing, with all partial time increments rounded down 					
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 					
Cost of paper copies (not including labor)					
Cost of mailing <ul style="list-style-type: none"> Actual cost of mailing, for sending records in a reasonably economical and justifiable manner and for least expensive form of postal delivery confirmation Does not include charge for expedited shipping or insurance unless stipulated by requestor 					
TOTAL FINAL COSTS					
LESS DEPOSIT RECEIVED					
BALANCE DUE					

*The University 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 University 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.