

TO: All Members of the University Community

2008:02

DATE: July, 2007

**Freedom of Information Act (FOIA) Policy and Procedures**  
(Supersedes 00:04)

It is the policy of the University to provide information to the public whenever possible, unless the provision of such information is determined to be exempt from disclosure. If a request for information is made pursuant to the Freedom of Information Act (FOIA), please adhere to the following policy.

I. INTRODUCTION

The Freedom of Information Act provides that upon a written request (including requests transmitted by facsimile, electronic mail, or other electronic means) sufficient for the University to identify the specific public record involved, a person may inspect, copy or receive copies of a public record. Public records are documents, pictures, photographs, video/audio tapes, punch cards, computer disks, or any other media for retaining data or information (originals or copies) that are prepared, owned, used, in the possession of, or retained by the University in the performance of any official function and are not otherwise exempted from disclosure by the Act.

Upon receipt of the written request, the University has five (5) business days to (a) grant the request; (b) issue a written denial of the request; (c) grant the request in part and issue a written denial in part; or (d) issue written notice of a one-time extension of not more than ten (10) business days for the University to respond to the request. By the expiration of the ten (10) business day extension, the University must either (a) grant the request; (b) issue a written denial of the request; or (c) grant the request in part and issue a written denial of the request in part. Failure to respond as outlined could subject the University to a civil lawsuit in a Michigan court of law.

If the University grants the FOIA request, it must either furnish a reasonable opportunity for the individual to inspect or copy the University records during the usual business hours of the University, or provide the individual with a copy of the requested public record. With some limitations, the University may charge a fee in connection with the FOIA request.

If the University denies the FOIA request (in whole or in part), it must provide notice to the individual seeking public records of their right to seek action in a circuit court to compel disclosure of public records, or to appeal the denial of public records to the President of the University.

## II. POLICY AND PROCEDURES

Because the University has only five (5) business days to respond to a FOIA request, it is imperative that every University employee follow these procedures:

### A. Receiving a FOIA Request

1. Upon receiving a written FOIA request either by mail, facsimile, e-mail or other electronic means, or delivered in person, note the date that the request was received by the University.
2. Immediately contact the University's General Counsel's office to make arrangements to deliver the request to the FOIA Coordinator.

### B. Response by the FOIA Coordinator

1. The FOIA Coordinator will be responsible for responding to the FOIA request.
2. In the event the requesting party wishes to inspect the records at the University rather than receive copies of the public records, the FOIA Coordinator, in coordination with the custodian of the records, will contact the requesting party to schedule a time for the records to be reviewed.
3. When the requesting party arrives at the scheduled time and date to inspect the requested public records, the custodian of the records shall provide the requesting party with a suitable place to inspect the record and to make notes.
4. The custodian of the records should not allow the individual to remove any University record or document from the office.
5. If the individual cannot complete his/her inspection during the regular business hours of the custodian of the records, the individual may be required to return on another date to complete the inspection.

### C. Procedures & Guidelines for Calculating the Copying and Mailing Costs and the Cost of Labor Incurred in Processing FOIA Requests

1. FOIA permits a public body to charge a fee for the necessary copying of a public record for inspection, or for providing a copy of a public record. The fee must be limited to actual mailing costs, and to the actual incremental cost of duplication or publication, including labor.
2. FOIA also permits a public body to charge a fee for the search, retrieval, examination, review and separation and deletion of exempt from nonexempt information, but only if 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.
3. In calculating the cost of labor, a public body may not charge more than the hourly wage, including benefits, of the lowest paid employee capable of processing the request in compliance with the FOIA. Pursuant to the FOIA, General Counsel has established the following procedures and guidelines for calculating labor and material costs incurred in processing FOIA requests:
  - a. Labor costs for duplication of records will be calculated using the hourly wage, including benefits, of the department's lowest paid employee. The department

will utilize the most economical means available for making copies of public records. The per copy charge for labor and material will be based on the department's reports for such expenses for the applicable fiscal year.

- b. Labor costs for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt information, or any part thereof; and labor costs for the search and retrieval of computer records, if the search and retrieval require specialized knowledge of a program or database, will be calculated using the hourly wage of the department's lowest paid employee capable of conducting the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt information, or any part thereof. The hourly wage, including benefits, will be based on the department's payroll detail for the applicable fiscal year.
- c. Labor costs for monitoring an inspection of original records will be calculated using the hourly wage, including benefits, of the department's lowest paid available employee. The hourly wage will be based on the department's payroll detail for the applicable fiscal year. Note: FOIA provides, in pertinent part, that "[a] public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction."
- d. Fees will be uniform and not dependent upon the identity of the requesting person.
- e. A fee will not be charged for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt information, or any part thereof, unless failure to charge a fee would result in an unreasonably high cost to the department because of the nature of the request in the particular instance. In general and consistent with Section II.C.3.a., b., and c., a fee will be charged for processing a request that requires one or more hour(s) of time for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material, or any part thereof.
- f. A fee will not be charged for the necessary copying of a public record for inspection or for providing a copy of a public record; for mailing costs; for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt information, or any part thereof; or for monitoring an inspection of original records where the total fee is equivalent to less than one hour of the hourly wage, including benefits, of the department's lowest paid employee based on the department's payroll detail for the applicable fiscal year.
- g. If the costs are estimated to exceed \$50.00, a deposit of half of the estimated amount of the cost will be collected first. Only after receipt of the deposit, the records will be gathered, copied, and actual fees determined, with payment in full required before the records are released.

#### D. FOIA Requests Made by News Media

1. Upon receipt of the FOIA request from the news media, the FOIA Coordinator will immediately forward a copy of the request to University Advancement and Marketing and inform them whether the FOIA request was granted or denied.

E. Internal Appeal Procedure

1. FOIA provides two avenues for an individual to seek redress of the University's final determination to deny all or a portion of a request. An individual may either commence an action in the circuit court in an attempt to compel the University's disclosure of the public records, or submit to the President of the University a written appeal of the final determination. In the event an appeal is made to the President in accordance with the Act, the following procedures will be followed:
  - a. Upon receipt of an appeal, the Office of the President shall immediately date-stamp the appeal, track the deadline date, and forward (via facsimile) the appeal to General Counsel.
  - b. General Counsel shall review the appeal to determine whether or not the appeal is in the form required by statute and shall review the rationale set out in the appeal for reversal of the final determination (denial).
  - c. General Counsel shall advise the Office of the President regarding whether or not the rationale is persuasive and grounded in statute, and shall provide assistance as necessary to relay the decision of the President to the individual seeking appeal.
  - d. The Office of the President shall issue the findings within the time requirements established by the Act (within ten (10) days of receiving the written appeal, unless a one-time, 10-day extension is sought).

Richard Duffett, Vice President  
Administration and Finance

Contact: Office of the General Counsel