

Effective July 1, 2015, an updated Michigan Freedom of Information Act (<http://www.legislature.mi.gov/documents/2013-2014/publicact/htm/2014-PA-0563.htm>) will go into effect, requiring a number of small changes to our FOIA policy. Our existing policy, available on our website at <https://www.BranchDistrictLibrary.org/policies>, was vetted by the library's attorney and approved in 2007. In the years since this policy has been in effect, we have never had a FOIA request.

Things that needed changing on our existing policy:

- requests may now be submitted verbally.
- responses must be made in a timely manner and include an estimate of the timeframe to complete and any fees.
- fees for searching, locating, and examining documents, and deleting exempt data, may not be charged unless not charging would be a burden to the library due to “unreasonably high costs”.
- this searching fee may be billed at a minimum of 15-minute increments.
- we may not charge any fees if a document search turns up nothing.
- per-page fee may not be more than \$0.10 per sheet of paper, not per side. We are required to use double-sided printing/copies if available
- required to help the indigent: the first \$20 in fees for any request must be waived.
- we may not charge any fees unless we have made public the policy, procedures, and guidelines to do so.
- we must use a standard form to itemize the fees.

The proposed changes to the BDL FOIA Policy are noted in-line below, with a cleaned-up version following. These changes come from the general public recommendations from our library attorney, Foster Swift (archived here: <https://www.youtube.com/watch?v=YG7ky2RNK2g>). Following the proposed policy change is the required detailed fee itemization form to implement the policy, which I adapted from the form used by the Michigan Townships association.

Submitted by John Rucker

Marked-Up Current Policy

Freedom of Information Act Policy

The Library Director serves as the FOIA Coordinator for the Branch District Library **System**.

All requests **preferably should** **must** be submitted in writing to the Library FOIA Coordinator **and signed by the requester**. Requests for records should be as specific as possible. Library users' private information and Library records that identify an individual as having requested or obtained certain materials from the Library are protected from disclosure in accordance with the Michigan Library Privacy Act.

The FOIA Coordinator will respond in writing within five business days to all requests for library records. If the request for records is approved, this response will include an estimate of the timeframe required to fulfill the request and a fee calculation estimate.

Section 10 of the Michigan Freedom of Information Act provides for appeals of decisions to deny access to public records. If the Branch District Library makes a final determination to deny all or a portion of a request for library business records, the requester may submit to the Library Board a written appeal that specifically states the word "appeal" and identifies the reason or reasons the denial should be reversed.

In compliance with Michigan Freedom of Information Act, granted requests for Library records may will be filled for a fee. This fee may cover expenses related to searching for, locating, and examining documents, as well as removing exempt data research, review, copying and mailing of documents, if these services are requested under the FOIA. There may be a charge of the hourly rate currently earned by the lowest paid employee capable of searching for, locating, and examining the requested materials, billed at 15-minute increments, with partials rounded down.

The printing fee for copies will be \$ ~~0.15~~ 0.10 per page sheet of paper of for each page sheet needed to fulfill the request. Double-sided printing and copying will be used to minimize the number of sheets of paper. In addition, there will be a charge of the hourly rate currently earned by the lowest paid employee capable of copying the requested materials, billed at a minimum of 1/10th of an hour, or the actual amount, whichever is greater 15-minute increments, with partials rounded down.

If delivery of documents is requested on nonpaper physical media, a fee may be charged to cover the cost of the media, provided the library has the technological capability to deliver the documents on the requested media. A fee may be charged to cover the costs of mailing documents on paper or on nonpaper physical media.

Library packets and approved minutes may be viewed on the library's web site at any time for no fee. FOIA requests for documents that are publicly available on the library's web site will be answered with a link to the online documents. If a person wishes to examine the physical library records in person without having the records duplicated, an appointment must be made for viewing during normal business hours. The Library may make reasonable rules to protect its records and to prevent excessive and unreasonable interference with the discharge of its functions.

In some instances where original documents contain exempt information, the exempt material will be redacted and copies made for inspection. There still will be a fee charged for the cost of searching for and reviewing the original records, and for making the redacted copies.

Generally speaking, requests for a single copy of a particular budget, report, minutes, or other discrete and readily identified items not exceeding 10 pages covered by the Act will be provided without fee. Some such records are already published on the Library web site and may be viewed without a fee at any time.

The library will respond to a FOIA request within five business days after receipt of the request.

Adopted by the BDLS Board on August 20, 2007

Proposed Policy

Freedom of Information Act Policy

The Library Director serves as the FOIA Coordinator for the Branch District Library.

Requests preferably should be submitted in writing to the Library FOIA Coordinator. Requests for records should be as specific as possible. Library users' private information and Library records that identify an individual as having requested or obtained certain materials from the Library are protected from disclosure in accordance with the Michigan Library Privacy Act.

The FOIA Coordinator will respond in writing within five business days to all requests for Library records. If the request for records is approved, this response will include an estimate of the timeframe required to fulfill the request and a fee calculation estimate.

Section 10 of the Michigan Freedom of Information Act provides for appeals of decisions to deny access to public records. If the Branch District Library makes a final determination to deny all or a portion of a request for library business records, the requester may submit to the Library Board a written appeal that specifically states the word "appeal" and identifies the reason or reasons the denial should be reversed.

In compliance with Michigan Freedom of Information Act, granted requests for Library records may be filled for a fee. This fee may cover expenses related to searching for, locating, and examining documents, as well as removing exempt data. There may be a charge of the hourly rate currently earned by the lowest paid employee capable of searching for, locating, and examining the requested materials, billed at 15-minute increments, with partials rounded down.

The printing fee for copies will be \$ 0.10 per sheet of paper for each sheet needed to fulfill the request. Double-sided printing and copying will be used to minimize the number of sheets of paper. In addition, there will be a charge of the hourly rate currently earned by the lowest paid employee capable of copying the requested materials, billed at 15-minute increments, with partials rounded down.

If delivery of documents is requested on nonpaper physical media, a fee may be charged to cover the cost of the media, provided the library has the technological capability to deliver the documents on the requested media. A fee may be charged to cover the costs of mailing documents on paper or on nonpaper physical media.

Library packets and approved minutes may be viewed on the library's web site at any time for no fee. FOIA requests for documents that are publicly available on the library's web site will be answered with a link to the online documents. If a person wishes to examine physical library records in person without having the records duplicated, an appointment must be made for viewing during normal business hours. The Library may make reasonable rules to protect its records and to prevent excessive and unreasonable interference with the discharge of its functions.

Adopted by the BDL Board on April 20, 2015



FOIA Request made by:

Request made on date:

Library received request on date:

Library staff who received request:

Description of FOIA Request (attach copy of request if in writing):

Request is:

- Granted in full
- Granted in part
- Denied

FOIA Coordinator explanation if not granted in full:

FOIA Coordinator first response to requestor on date:

Freedom of Information Act Request Detailed Cost Itemization

Date: _____

Prepared for: _____

Date Request Received: _____

<p>The following costs are being charged in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the Library's FOIA Policies and Guidelines.</p>		
<p>1. <u>Labor Cost for Copying / Duplication</u></p> <p>This is the cost of labor directly associated with duplication of publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the Internet or other electronic means as stipulated by the requestor.</p> <p>This shall not be more than the hourly wage of the Library's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Wage Charged: \$ _____ Charge per increment: \$ _____</p>	<p>To figure the number of increments, take the <i>number of minutes</i>: _____, divide by <i>15-minute increments</i>, and round down. Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>1. Labor Cost</p> <p>\$ _____</p>
<p>2. <u>Labor Cost to Locate:</u></p> <p>This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. This fee is being charged because failure to do so will result in unreasonably high costs to the Library that are excessive and beyond the normal or usual amount for those services compared to the Library's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____</p> <hr/> <p>The Library will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor.</p> <p>These costs will be estimated and charged in 15-minute time increments; all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Wage Charged: \$ _____ Charge per increment: \$ _____</p>	<p>To figure the number of increments, take the <i>number of minutes</i>: _____, divide by <i>15-minute increments</i>, and round down. Enter below:</p> <p>Number of increments</p> <p>x _____ =</p>	<p>2. Labor Cost</p> <p>\$ _____</p>

3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a Library employee. If contracted, use No. 3b instead).

The Library will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the Library that are excessive and beyond the normal or usual amount for those services compared to the Library's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____

This is the cost of labor of a **Library employee**, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the **Library's lowest-paid employee** capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in **15-minute time**; all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____ Charge per increment: \$ _____

To figure the number of increments, take the *number of minutes*: _____, divide by *15-minute increments*, and round down. Enter below:

Number of increments	3a. Labor Cost
x _____ =	\$ _____

3b. Contracted Labor Cost for Separating Exempt from Non-Exempt (Redacting):

(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a instead.)

The Library will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

This fee is being charged because failure to do so will result in unreasonably high costs to the Library that are excessive and beyond the normal or usual amount for those services compared to the Library's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____

As the Library does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a **contractor** (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This shall not exceed an amount equal to 6 times the state minimum hourly wage rate of _____ (*currently \$8.15*).

Name of contracted person or firm: _____

These costs will be estimated and charged in **15-minute time increments**; all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Cost Charged: \$ _____ Charge per increment: \$ _____

To figure the number of increments, take the *number of minutes*: _____, divide by *15-minute increments*, and round down. Enter below:

Number of increments	3b. Labor Cost
x _____ =	\$ _____

4. Copying / Duplication Cost:

Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection).

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 1/2 x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- **Circle applicable:** Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

The cost of paper copies **must** be calculated as a total cost per sheet of paper. The fee **cannot 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. The Library must utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

Number of Sheets:

x _____ = \$ _____
 x _____ = \$ _____

x _____ = \$ _____

No. of Items:

x _____ = \$ _____

Costs:

4. Total Copy Cost
 \$ _____

5. Mailing Cost:

The Library will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The Library **may** charge for the least expensive form of postal delivery confirmation.
- The Library **cannot** charge more for expedited shipping or insurance unless specifically requested by the requestor.*

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp
 \$ _____ per pound
 \$ _____ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

Number of Envelopes or Packages:

x _____ = \$ _____

Costs:

5. Total Mailing Cost
 \$ _____

* Requestor has requested expedited shipping or insurance

6a. Copying/Duplicating Cost for Records Already on The Library's Website:

If the public body has included the website address for a record in its written response to the requestor, and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or non-paper physical digital media, the Library will provide the public records in the specified format and may charge copying costs to provide those copies.

No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:

- Letter (8 1/2 x 11-inch, single and double-sided): _____ cents per sheet
- Legal (8 1/2 x 14-inch, single and double-sided): _____ cents per sheet

No more than the actual cost of a sheet of paper for other paper sizes:

- Other paper sizes (single and double-sided): _____ cents / dollars per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- **Circle applicable:** Disc / Tape / Drive / Other Digital Medium Cost per Item: _____

Requestor has stipulated that some / all of the requested records that are already available on the Library's website be provided in a paper or non-paper physical digital medium.

Number of Sheets:

x _____ = \$ _____
x _____ = \$ _____

Costs:

x _____ = \$ _____

No. of Items:

x _____ = \$ _____

6a. Web Copy Cost

\$ _____

6b. Labor Cost for Copying/Duplicating Records Already on the Library's Website:

This shall not be more than the hourly wage of the Library's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor. These costs will be estimated and charged in **15-minute time increments**; all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____

Charge per increment: \$ _____

To figure the number of increments, take the *number of minutes*: _____, divide by 15 -minute increments, and round down. Enter below:

Number of increments

x _____ = \$ _____

6b. Web Labor Cost

6c. Mailing Cost for Records Already on the Library's Website:

Actual Cost of Envelope or Packaging: \$ _____

Actual Cost of Postage: \$ _____ per stamp / per pound / per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ _____

*Expedited Shipping or Insurance as Requested: \$ _____

* Requestor has requested expedited shipping or insurance

Number:

x _____ = \$ _____

Costs:

6c. Web Mailing Cost

\$ _____

Subtotal Fees Before Waivers, Discounts or Deposits:

.. Cost estimate
.. Bill

- 1. Labor Cost for Copying: \$ _____
- 2. Labor Cost to Locate: \$ _____
- 3a. Labor Cost to Redact: \$ _____
- 3b. Contract Labor Cost to Redact: \$ _____
- 4. Copying/Duplication Cost: \$ _____
- 5. Mailing Cost: \$ _____
- 6a. Copying/Duplication of Records on Website: \$ _____
- 6b. Labor Cost for Copying Records on Website: \$ _____
- 6c. Mailing Costs for Records on Website: \$ _____

Estimated Time Frame to Provide Records:

_____ (days or date)

The time frame estimate is nonbinding upon the Library, but the Library is providing the estimate in good faith. Providing an estimated time frame does not relieve the Library from any of the other requirements of this act.

Subtotal Fees: \$ _____

Waiver: Public Interest

A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the Library determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

All fees are waived **OR** All fees are reduced by: _____%

Subtotal Fees After Waiver: \$ _____

Discount: Indigence

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by an individual who is entitled to information under this act and who:

- 1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, **OR**
- 2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if **ANY** of the following apply:

- (i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year, **OR**
- (ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

Eligible for Indigence Discount

Subtotal Fees After Discount (subtract \$20): \$ _____

Discount: Nonprofit Organization

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first \$20.00 of the fee** for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets **ALL** of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
- (ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.
- (iii) Is accompanied by documentation of its designation by the state, if requested by the Library.

Eligible for Nonprofit Discount

Subtotal Fees After Discount (subtract \$20): \$ _____

<p>Deposit: Good Faith The Library may require a good-faith deposit <u>before providing the public records to the requestor if the entire fee estimate or charge authorized under this section exceeds \$50.00</u>, based on a good-faith calculation of the total fee. The deposit cannot exceed 1/2 of the total estimated fee. Percent of Deposit: _____%</p>	<p>Date Paid: _____</p>	<p>Deposit Amount Required: \$ _____</p>
<p>Deposit: Increased Deposit Due to Previous FOIA Fees Not Paid In Full After a Library has granted and fulfilled a written request from an individual under this act, if the Library has not been paid in full the total amount of fees for the copies of public records that the Library made available to the individual as a result of that written request, the Library may require an increased estimated fee deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual if ALL of the following apply:</p> <p>(a) The final fee for the prior written request was not more than 105% of the estimated fee. (b) The public records made available contained the information being sought in the prior written request and are still in the Library's possession. (c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request. (d) Ninety (90) days have passed since the Library notified the individual in writing that the public records were available for pickup or mailing. (e) The individual is unable to show proof of prior payment to the Library. (f) The Library calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.</p> <p>The Library can no longer require an increased estimated fee deposit from an individual if ANY of the following apply:</p> <p>(a) The individual is able to show proof of prior payment in full to the Library, OR (b) The Library is subsequently paid in full for the applicable prior written request, OR (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the Library.</p>	<p>Date Paid: _____</p>	<p>Percent Deposit Required: _____%</p> <p>Deposit Required: \$ _____</p>
<p>Late Response Labor Costs Reduction If the Library does not respond to a written request in a timely manner as required under MCL 15.235(2), the Library must do the following:</p> <p>(a) Reduce the charges for labor costs otherwise permitted by 5% for each day the Library exceeds the time permitted for a response to the request, with a maximum 50% reduction, if EITHER of the following applies:</p> <p>(i) The late response was willful and intentional, OR</p> <p>(ii) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy", or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.</p>	<p>Number of Days Over Required Response Time: _____</p> <p>Multiply by 5% = Total Percent Reduction: _____</p>	<p>Total Labor Costs \$ _____</p> <p>Minus Reduction \$ _____</p> <p>= Reduced Total Labor Costs \$ _____</p>
<p>The Public Summary of the Library's FOIA Procedures and Guidelines is available free of charge from: Website: https://www.BranchDistrictLibrary.org/foia_policy Email: secretary@BranchDistrictLibrary.org Phone: 517-278-2341 Address: 10 E. Chicago St., Coldwater MI 49036</p> <p style="text-align: center;">Request Will Be Processed, But Balance Must Be Paid Before Copies May Be Picked Up, Delivered or Mailed</p>	<p>Date Paid: _____</p>	<p>Total Balance Due: \$ _____</p>

(Form adopted from the Michigan Townships Association, April 2015 by Branch District Library, April 2015)