



Michigan Legislative Council Freedom of Information Act (FOIA) Procedures and Guidelines

A. FOIA Coordinator.

In accordance with section 6 of the FOIA, MCL 15.236, the Legislative Council Administrator is the FOIA Coordinator for the Michigan Legislative Council.

B. Submission of FOIA Request.

FOIA requests to the Legislative Council can be sent by email, fax, or mail to:

Email: LCA@legislature.mi.gov

Michigan Legislative Council
124 West Allegan
Boji Tower - 3rd Floor
P.O. Box 30036
Lansing, MI 48909-7536
Fax: (517) 373-7668

Requests should include a name, telephone number, and mailing address.

C. Immediately Forward FOIA Request.

Any employee of the Council who receives a written request for a public record must immediately forward that request to the FOIA Coordinator at LCA@legislature.mi.gov. If a Council employee receives a written request for a public record that is delivered to a spam or junk-mail folder, the employee must record the date and time the written request is delivered to the spam or junk-mail folder and the date and time the employee first becomes aware of the written request. The employee must forward those dates and times to the FOIA Coordinator with the written request.

D. Request Response Time.

The Council may extend the time for responding up to an additional 10 business days by notifying the requesting person in writing of the reason for the extension and the time period for the extension. MCL 15.235(2)(d) and (6). Due to the short statutory time period within which the Council must issue a written response to the FOIA request, it is imperative that there be no delay in complying with the Council's procedures and guidelines.

E. Response to a FOIA Request.

Only the Council's FOIA Coordinator or his or her designee may respond to FOIA requests. The Council shall provide copies of these procedures and guidelines with each written response or provide a link to an online version of these documents. If a request is denied, in full or in part, the Council shall provide the requester an explanation of the basis of the denial under the FOIA and give notice to the requester of his or her remedial rights. MCL 15.235(4).

F. Notification of FOIA Request.

Upon receipt of a FOIA request, the Council's FOIA Coordinator or his or her designee shall email or fax the division or divisions that might possess records responsive to the FOIA request.

G. Division Response to Division's FOIA Coordinator.

As soon as possible, but not later than two business days before the Council's FOIA response is due, the division's response is due to the FOIA Coordinator. The division director or a designee must approve a division FOIA response before it is provided to the FOIA Coordinator.

H. Assessment of Fees for a FOIA Request.

The FOIA permits the Council to charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material if the failure to charge a fee would result in unreasonably high costs to the Council because of the nature of the request in the particular instance and if the Council specifically identifies the nature of these unreasonably high costs. MCL 15.234(1) and (3).

The following fee guidelines for calculating labor and material costs incurred in processing FOIA requests are established pursuant to MCL 15.234(3):

1. Fees shall be uniform and not dependent upon the identity of the requesting person.
2. Fees shall be itemized using the Council's Freedom of Information Act (FOIA) Detailed Itemization of Fees form and shall include:
 - A. Labor costs for the search, location, and examination of public records shall be calculated using the hourly wage of the Council's lowest paid employee capable of conducting the search, location, and examination, whether or not that employee is available or actually performs the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Council's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - B. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material shall be calculated using the hourly wage of the Council's lowest paid employee capable of conducting the review and separation and deletion of exempt from nonexempt material, whether or not that employee is available or actually performs the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Council's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - C. Nonpaper physical media costs shall be calculated using the actual and most reasonably economical cost of computer discs, computer tapes, and other digital and similar media provided by the Council.
 - D. Duplication and publication costs shall be calculated using the actual total incremental cost of necessary duplication or publication of a public record, not

including labor. The actual and incremental cost, calculated per sheet, shall be charged and shall not exceed 10 cents per sheet of paper for letter or legal size paper. The Council shall use the most economical means available for making copies, including the use of double-sided printing, if cost saving and available.

- E. Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on nonpaper physical media or through electronic means, shall be calculated using the hourly wage of the Council's lowest paid employee capable of duplicating or publishing the public records, whether or not that employee is available or actually performs the labor. Such labor costs shall be estimated and charged in increments of 15 minutes with all partial increments rounded down. The hourly wage will be based on the Council's payroll records for the applicable fiscal year. Labor costs shall also include up to 50% of the hourly wage to partially cover the cost of fringe benefits, not to exceed the actual cost of fringe benefits.
 - F. Actual costs of mailing using a reasonably economical and justifiable manner.
3. No Council employee may stipulate to work overtime or include overtime wages in the labor costs described in these procedures and guidelines.
 4. If a requester submits an affidavit of indigency, the first \$20.00 of a fee shall be waived. A requesting person must include a statement that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.
 5. Labor costs for monitoring an inspection of original records shall be calculated using the hourly wage of the Council's lowest paid employee capable of monitoring the inspection. Labor costs for monitoring an inspection shall not be charged for the first hour. The hourly wage shall be based on the Council's payroll records for the applicable fiscal year. Note: Section 3(3) of the FOIA, MCL 15.233(3), provides, in pertinent part, that "[a] public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction."
 6. If a statute authorizes the sale or production of public records to the public for a specified fee or if a fee for production of public records is otherwise set by statute, the Council shall charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.
 7. The Council shall not charge a fee for the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material that will take less than one hour. If the search, retrieval, examination, review, and separation and deletion of exempt from nonexempt material will take more than one hour, a fee shall be charged in accordance with this procedure pursuant to section 4 of the FOIA, MCL 15.234. The hourly wage shall be based on the Council's payroll records for the applicable fiscal year.

I. Deposit Requirements.

If the Council estimates a fee to process a FOIA request greater than \$50.00, the Council shall require a good-faith deposit from the requester before providing the public records to the requester. The deposit shall not exceed 1/2 of the total estimated fee. Any written notice containing a notice of a deposit shall also contain a best efforts estimate by the Council regarding the time frame after a deposit is received that it will take the Council to provide the public records to the requester. The time frame estimate is not binding upon the Council, but the Council shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based

on the public policy embodied in the FOIA, MCL 15.231, and the nature of the request in the particular instance.

J. Appeals of Fees and Disclosure Determinations.

If the Council charges a fee or denies all or part of a request, the requester may submit to the Chair of the Michigan Legislative Council a written appeal that specifically states the word "appeal" and identifies the basis for which the fee should be reduced or the disclosure determination should be reversed. Written appeals may be sent to the email address or mailing address listed above and will be forwarded to the Chair of the Legislative Council or the person designated by the Chair of the Legislative Council to respond to written appeals.