

Marion Public Library
(M. Alice Chapin Memorial Library)

Freedom of Information Act Policy
(Procedures and Guidelines)
(Approved June 11, 2015)

I. Purpose

It is the intent of the Marion Public Library to perform public business in an open and public manner as required by Michigan's Freedom of Information Act PA 442 of 1976, MCL 15.231 et seq (FOIA) PA 563 of 2014. This Policy prescribes the Marion Public Library's procedures for responding to written public records requests made pursuant to FOIA.

II. Scope

This policy applies to the Library whenever a written request for public records is made under Michigan's FOIA law. This Policy does not apply to any records that are exempt from disclosure such as, but not limited to:

- Specific personal information about an individual if the release would constitute a clearly unwarranted invasion of that individual's privacy.
- Records that may be exempted from disclosure by another statute. (Note: statutes which expressly prohibit public disclosure of records generally supersede the FOIA)
- Information subject to attorney-client privilege.
- Pending public bids to enter into contracts.
- Records that would disclose the social security number of an individual.

A. Access

Public records shall be open to inspection and copying during the Library's regular business hours by the custodian of the requested public records. Reasonable access to and reasonable facilities for copying of these records shall be provided. The Library shall provide reasonable assistance in identifying and locating public records in accordance with this policy.

B. Form of FOIA Requests

All FOIA requests shall be made in writing.

All FOIA requests shall adequately describe the records sought in sufficient detail to enable the Library to locate such records with reasonable effort. The requesting party shall be as specific as possible when requesting records. To assist them in locating the requested records, the

Library may request that the requesting party provide additional information known to the requesting party, such as the types of records, dates, parties to correspondence, and subject matter of the requested records.

- A FOIA request will be answered within 5 business days after receiving it. If needed, the Library will notify the requester in writing and extend the time for an additional 10 business days.
- A request sent by e-mail or other electronic means is not considered received until 1 business day after it is transmitted. If the request is sent to a spam or junk mail folder, it is not considered received until 1 day after it is discovered.
- If the library grants a written request in full, the requester will receive a notice indicating that it has been granted.
- However, if a request is denied or denied in part, the Library will respond to the requester with an explanation of the reasons for the denial and the requester's right to submit a written appeal to the head of the public body (Board Chair) or to seek judicial review with the right to receive attorney fees and collect damages.
- If documents are available on the website, to the degree practicable, the response will include a specific webpage address where the requested information is available. The Library will inform the requester of the additional charge to receive copies of the public records that are available on its website.

Fees: Fees may be charged as permitted by law.

- The FOIA Coordinator will provide a detailed itemization of costs. For labor costs, the fee shall not exceed the sum of the following components:
 - **Hourly Wage** – 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 regardless of whether that person is available or who actually performs the labor, except if the Library does not employ a person capable of separating and deleting exempt information from non-exempt information it may treat necessary contracted labor costs for that purpose in the same manner as employee labor costs but may not exceed 6 times the State minimum hourly wage.
 - **Time Increments:** The fee will be charged in fifteen (15) minute increments, with all partial time rounded down, except the labor fee for duplication and publication, which shall be charged in one (1) minute increments.
 - **Determination of Unreasonably High Labor Costs.** The fee for searching for, locating and examining public records and separating exempt information from non-exempt information (including redacting) will not be charged 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 these unreasonably high costs.

- **Overtime.** Overtime wages shall not be included unless agreed to by the requester.
- **Description of Charges.** The detailed itemization will include both the hourly wage and the number of hours charged.
- **Fringe Benefit Costs.** The Library may also add up to 50% to the applicable labor charge amount (but may not exceed actual costs) to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used to account for benefit, unless a requester wants records that are available on the website. In which case, the fringe benefit multiplier can be greater than the 50% limitation.
- For public records provided to the requester on non-paper physical media (discs, flash drives, e-mails), the Library may charge the actual and most reasonably economical cost of the media.
- For paper copies, the Library may charge the actual total incremental cost of necessary duplication of publication not to exceed \$.10 per page (single or double-sided) for 8 ½ x11 inch paper or 8 ½ x14 inch paper. The Library will charge the actual cost of copies made on paper of a different size. The Library will use double-sided printing, if cost saving and available.
- The Library may charge the actual cost of mailing and the least expensive form of postal delivery confirmation.

Deposit Requirements.

- The Library may require a good-faith deposit of ½ of the estimated fee if the entire fee estimate of charge authorized under the FOIA exceeds \$50.00, based on a good-faith calculation of the total estimated fee.
- The Library will also provide a best efforts, nonbinding estimate of the time frame it will take the Library to provide the public records to the requester.
- If the Library has granted a prior request but has not been paid in full, the Library may require a deposit of up to 100% of the estimated fee if all of the following apply:
 - The final fee for the prior written request was not more than 105% of the estimated fee.
 - The public records made available contained the information being sought in the prior written request and are still in the Library's possession.
 - The public records were made available to the individual, subject to payment, within the time frame estimate described Section 4(7) of the FOIA.
 - Ninety days have passed since the Library notified the individual in writing that the public records were available for pick up or mailing.
 - The individual is unable to show proof of prior payment to the Library.
 - The Library calculates a Detailed Itemization that is the basis for the current written request's increased estimated fee deposit.

The Library shall no longer require an increased estimated fee deposit if **any** of the following apply:

- The individual 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
- Three hundred sixty-five days have passed since the individual made the written request for which full payment was not remitted to the Library.

Waiver or Reduction of Fees

- A reduction of the fee by \$20.00 is available to certain individuals who submit an affidavit stating they are indigent and receiving public assistance, or if not receiving public assistance, stating facts showing an inability to pay due to indigence. For this reduction to apply, the individual may not have received discounted fees twice during that calendar year and the person may not be requesting on behalf of parties who are paying to make the request.
- A reduction of the fee by \$20.00 is also available to certain non-profit organizations formally carrying out activities under subtitle C of the developmental disabilities assistance and bill of rights act of 2000, and the protection and advocacy for individuals with mental illness act, provided that the request is made on behalf of the organization or its clients, is made for a reason consistent with the laws under Section 931 of the mental health code and is accompanied by documentation of its designation by the state.
- The FOIA Coordinator may reduce or waive the imposition of fees if the FOIA Coordinator 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.
- If a Library does not respond to a written request in a timely manner as required by the FOIA, the Library shall reduce the charges for labor costs by 5% for each day the Library exceeds the time permitted, with a maximum 50% reduction, if the late response was willful and intentional or the written request included specific language as set forth more fully in the Procedures and Guidelines.

Appealing a Decision to Deny all or Part of a Request.

- If a requestor desires to appeal all or part of a decision to deny a request, the requester must submit to the Marion Public Library Board a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.
- The Library Board is not considered to have received a written appeal until the first regularly scheduled meeting after submission of the written appeal.
- The Library will respond within 10 business days by reversing the disclosure denial, upholding the denial, revising in part and upholding in part the denial or issuing a 10 business day extension.

Appealing a Determination of the Fee or Deposit Amount.

- The requester may submit to the Library Board a written appeal for a fee reduction that specifically states the word “appeal” and identifies how the required fee exceeds the amount permitted under the Procedures and Guidelines or Section 4 of the FOIA.
- The Library Board is not considered to have received a written appeal until the first regularly scheduled meeting after submission of the written appeal.
- The Library will respond within 10 business days by waiving the fee, reducing the fee and explaining the basis for the remaining fee, upholding the fee or issuing a 10 business day extension.

Filing a Lawsuit Regarding the Denial of a FOIA Request.

- If the Library Board fails to respond to a written appeal or if the Library Board upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requester may seek judicial review of the nondisclosure by commencing a civil action within 180 days after a Library’s final determination to deny a request. A requester may also commence a civil action in the circuit court to compel the Library’s disclosure of the public records within 180 days after a Library’s final determination to deny a request. The requester is not required to appeal the denial to the Library Board before commencing the civil action.
- If a person prevails in an action regarding the denial of a request, the court shall award reasonable attorney fees, costs and disbursements. If the person prevails in part, the court may award all or a portion of the attorney fees costs and disbursements. If the court determines the FOIA was arbitrarily or capriciously violated, the court shall order a civil fine of \$1,000.00 to be paid to the state treasury. The court may also award actual, compensatory or punitive damages.

Filing a Lawsuit Regarding the Fee Charged for a FOIA Request.

- A requester may commence a civil action in the circuit court for a fee reduction if the Library (1) failed to respond to a written appeal or (2) issued a determination of a written appeal. This action must be filed within 45 days after receiving notice of the fee or the determination of an appeal to the Library Board.
- If a person prevails in an action by receiving a reduction of 50% or more of the total fee, the court may award all or a portion of the reasonable attorney fees. If the court determines FOIA was arbitrarily or capriciously violated, the court shall order a civil fine of \$500.00 to be paid to the state treasury. The court may also award actual, compensatory or punitive damages.

C. Submit requests to:

Library Director

Marion Public Library

120 E. Main St.

PO Box 549

Marion, MI 49665

Phone (231)743-2421

FAX (231)743-2421

To: FOIA Officer – Library Director

Marion Public Library
120 E. Main St.
PO Box 549
Marion, MI 49665

Date:

From _____

Name: _____

Street Address: _____

City, State, Zip Code: _____

Phone Number: _____

Fax Number: _____

E-mail Address: _____

Dear Library Director:

Under the **Michigan Freedom of Information Act 15.231 et seq.**, I am requesting an opportunity to inspect or obtain copies of public records that **(Describe the records or information sought with enough detail for the Library to respond. Be as specific as your knowledge of the available records will allow. But it is more important to describe the information you are seeking).**

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$_____. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of **(Here, you can identify yourself as a representative of the news media if applicable and state that your request is related to news gathering purposes.)**

This information is not being sought for commercial purposes.

The Michigan Freedom of Information Act requires a response to this request within five days. If access to the records I am requesting will take longer than this amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

(Your name and phone number)