

Public Summary of EMU's Procedures and Guidelines for Freedom of Information Act Requests

It is Eastern Michigan University's ("EMU") policy, consistent with the Michigan Freedom of Information Act ("FOIA"), that all persons, except those incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they fully participate in the democratic process.

EMU's policy with respect to FOIA requests is to comply with State law and respond to each FOIA request in a consistent and fair manner.

EMU also acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. Sometimes, however, EMU must invoke FOIA's exemptions in denying a request, to ensure the effective operation of government and to protect the privacy of individuals under the law.

Therefore, EMU will protect the public's interest in disclosure, while withholding or redacting portions of certain records as required under the law.

EMU has established written procedures and guidelines to implement the FOIA, which are summarized below. These procedures and guidelines are also posted on EMU's webpage at: <http://www.emich.edu/legalaffairs/foia.php>.

How to submit a FOIA request to EMU:

A person wishing to inspect or receive a copy of a public record shall make a written request to the FOIA Coordinator of EMU. Requests must sufficiently describe the requested record so as to enable the Coordinator to identify and locate the public record. An email address or physical address must be provided for the response to be sent to.

Written requests should be emailed to foia.coordinator@emich.edu or mailed/dropped off in person at 11 Welch Hall, Ypsilanti, MI 48197. Requests may be submitted to any office at EMU and that office is responsible for promptly forwarding the request to the FOIA Coordinator, however, persons are encouraged to submit their requests directly to the FOIA Coordinator to avoid inadvertent delays.

Requests should state that they are submitted pursuant to the Michigan Freedom of Information Act.

The Act does not obligate EMU to create a new public record or make a compilation or summary of information which does not already exist.

A public record for purposes of FOIA is defined as *"a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software."* The Act is a document disclosure statute. Therefore, a FOIA Coordinator need not answer questions contained in requests, or inquiries about the content of the records.

How EMU processes requests

EMU must respond to a FOIA request within five (5) business days of the FOIA Coordinator receiving the request.

A response will do one or more of the following:

- Grant the request in full;
- Grant the request in part. Partially granting a request would occur when a portion of the requested records do not exist, are not in the possession of EMU, and/or are exempt from disclosure;
- Deny the request. Denying a request would occur when all of the requested records do not exist, are not in the possession of EMU, and/or are exempt from disclosure;
- Issue a notice extending the response time for no greater than ten (10) business days;
- A cost estimate;
- A notice that the record(s) sought has (have) not been sufficiently described to enable EMU to locate the record(s).

If any part of the request is denied, EMU's response will:

- include a description of what has been withheld or partially withheld;
- state the FOIA exemptions under which any information and/or documents are withheld, if applicable, and;
- provide options for appealing a denial
- advise the requester of his/her rights to receive attorney's fees and/or damages.

The FOIA provides a number of exemptions ranging from matters of privacy, medical records to most student records. ([MCL15.243](#)) The decision whether material should be withheld is made by the FOIA Office after consultation with other appropriate offices, if necessary. The FOIA Officer and FOIA Coordinator have the authority, delegated by the President, to deny a FOIA request in part or in full.

Deposit requirements

A good-faith deposit is required when the processing of a request will result in fees greater than \$50.00. 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. EMU will further process the request once the good-faith deposit is received.

Failure to pay the good-faith deposit will be deemed as a withdrawal of the request.

If, during the processing of the request, EMU determines that the actual costs will be higher than the original estimate, a revised cost itemization will be provided to the requesting party indicating the higher fee.

All cost estimates will include a non-binding, best efforts estimated time frame of when the final response will be provided.

Calculation of fees

Fees are calculated by adding together the following costs (see Fee Itemization Form attached):

- The labor costs for searching for, locating, and examining responsive records
- The labor costs for review, separation, and deletion of exempt information from non-exempt information
- The cost of non-paper physical media, if used
- The cost per copy of paper copies, not to exceed \$.10/page for standard 8 ½ x 11 inch paper
- The labor costs directly associated with duplication or publication, which may include copying to non-paper media
- The cost of mailing

EMU reserves the right to require payment in full of all fees included in the fee itemization calculation provided to the requester before delivering the final, responsive documents.

Fee reductions or waivers are required in certain instances involving proven indigence or non-profit organizations. When applicable, EMU will apply these reductions or waivers in accordance with the statute.

Procedures for appeals

If EMU denies a request in whole or in part, the requester may:

- Submit an appeal to the President, in writing. The appeal must specifically use the word “appeal” and identify the reason(s) the requester seeks reversal of the denial.

Via email: president@emich.edu

Via standard mail: Eastern Michigan University
ATTN: President
202 Welch Hall
Ypsilanti, MI 48197

The President must respond to the appeal within ten (10) business days by doing one of the following:

- Reverse the FOIA Coordinator’s decision, in part or in full;
 - Uphold the FOIA Coordinator’s decision;
 - Issue a notice of extension for not more than ten (10) additional business days.
- Commence a civil action in the Court of Claims within one hundred eighty (180) days after EMU’s final determination to deny the request.

If a requester believes that EMU 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. In this situation, EMU is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

Eastern Michigan University Freedom of Information Act Fee Itemization Form - ESTIMATE

Requesting party:

Request description:

15.234.amended Sec. 4. (1) Category & Description of Costs					
<p>(a) That portion of labor costs directly associated with the necessary searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in the particular instance regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.</p>					
Cost estimate:	<i>Hourly wage</i>	<i>Benefits % multiplier used*</i>	<i>Hourly wage with benefits</i>	<i>Estimated time (Hours)</i>	<i>Estimated fee for (a)</i>
<p>(b) That portion of labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information as provided in section 14. For services performed by an employee of the public body, the public body shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14, regardless of whether that person is available or who actually performs the labor. If a public body does not employ a person capable of separating and deleting exempt information from nonexempt information in the particular instance as provided in section 14 as determined by the public body's FOIA coordinator on a case-by-case basis, it may treat necessary contracted labor costs used for the separating and deleting of exempt information from nonexempt information in the same manner as employee labor costs when calculating charges under this subdivision if it clearly notes the name of the contracted person or firm on the detailed itemization described under subsection (4). Total labor costs calculated under this subdivision for contracted labor costs shall not exceed an amount equal to 6 times the state minimum hourly wage rate determined under section 4 of the workforce opportunity wage act, 2014 PA 138, MCL 408.411 to 408.424. Labor costs under this subdivision shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. A public body shall not charge for labor directly associated with redaction under section 14 if it knows or has reason to know that it previously redacted the public record in question and the redacted version is still in the public body's possession.</p>					
Cost estimate:	<i>Hourly wage</i>	<i>Benefits % multiplier used*</i>	<i>Hourly wage with benefits</i>	<i>Estimated time (Hours)</i>	<i>Estimated fee for (b)</i>
<p>(c) For public records provided to the requestor on nonpaper physical media, the actual and most reasonably economical cost of the computer discs, computer tapes, or other digital or similar media. The requestor may stipulate that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies. This subdivision does not apply if a public body lacks the technological capability necessary to provide records on the particular nonpaper physical media stipulated in the particular instance.</p>					
Cost estimate:	<i>Hourly wage</i>	<i>Benefits % multiplier used*</i>	<i>Hourly wage with benefits</i>	<i>Estimated time (Hours)</i>	<i>Estimated fee for (c)</i>
<p>(d) For paper copies of public records provided to the requestor, the actual total incremental cost of necessary duplication or publication, not including labor. The cost of paper copies shall be calculated as a total cost per sheet of paper and shall be itemized and noted in a manner that expresses both the cost per sheet and the number of sheets provided. The fee shall not 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. A public body shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.</p>					
Cost estimate:	<i>Hourly wage</i>	<i>Benefits % multiplier used*</i>	<i>Hourly wage with benefits</i>	<i>Estimated time (Hours)</i>	<i>Estimated fee for (d)</i>
<p>(e) The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor. The public body shall not charge more than the hourly wage of its lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision may be estimated and charged in time increments of the public body's choosing; however, all partial time increments shall be rounded down.</p>					
Cost estimate:	<i>Hourly wage</i>	<i>Benefits % multiplier used*</i>	<i>Hourly wage with benefits</i>	<i>Estimated time (Hours)</i>	<i>Estimated fee for (e)</i>
<p>(f) The actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner. The public body shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor, but may otherwise charge for the least expensive form of postal delivery confirmation when mailing public records.</p>					
Cost estimate:			<i>Anticipated shipping method</i>	<i>Estimated cost for (f)</i>	

**Eastern Michigan University Freedom of Information Act
Fee Itemization Form - ESTIMATE**

Requesting party:

Request description:

Cost estimate total:
(a)
(b)
(c)
(d)
(e)
(f)
Total estimate

Make checks payable to: Eastern Michigan University 11 Welch Hall ~ Ypsilanti, MI 48197 ATTN: FOIA Coordinator

Cost estimate deposit due to process request:
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**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.*