

MUSKEGON AREA DISTRICT LIBRARY FREEDOM OF INFORMATION ACT (“FOIA”) POLICY

This Policy shall be posted on MADL’s website

THE MICHIGAN FREEDOM OF INFORMATION ACT (FOIA) requires that public bodies grant full and complete access to information regarding the affairs of their operation. This Act provides for public access to certain records; permits certain fees; prescribes the powers and duties of certain public Coordinators; as well as remedies and penalties.

The Freedom of Information Act is designed to implement a strong state policy that all records maintained by government, unless exempted, are to be made available to the public upon request.

As a public body, the Muskegon Area District Library is required to assure that all persons (except those incarcerated in state or local correctional facilities) are entitled to full and complete information if the procedures of the Act are followed. Information covered under the FOIA include business transactions and paperwork maintained, received and generated as part of the governmental unit.

The purpose of this policy is to:

- Assure compliance with the Freedom of Information Act by the Muskegon Area District Library as required and permitted by statutes.
- Formulate a comprehensive policy regarding the dissemination of information pursuant to the Freedom of Information Act (MCL 15.231 et. seq.) (Public Acts 553 of 1996 and 563 of 2015), as amended.
- Communicate to MADL Board, Department Heads, employees, and the Public at large the formal Muskegon Area District Library policy on Freedom of Information requests.

I. RECEIVE THE REQUEST

1. FOIA Coordinator – The Library Director is the designated FOIA Coordinator with authorization by the Muskegon Area District Library to accept and process requests for the public records and to approve denials under the Freedom of Information Act.
2. All denials under the Act must be authorized by the FOIA Coordinator.
3. Request under the Freedom of Information Act must meet the following requirements:
 - a. All FOIA requests must be submitted in writing. Kindly mark your request as “Freedom of Information” or “FOIA.” If you require assistance with writing or translating, please contact the FOIA Coordinator. Individuals can submit their requests in letter format or complete and return a Request of Information form.

Requests received by facsimile are considered received the first business day following the transmittal. Electronic mail requests shall be deemed received the first business day following the transmittal however in the event an electronic mail request went into “spam” the request will not be deemed received until the first business day after the FOIA Coordinator became aware of it.

- b. The requested information must be identifiable. The written request should describe the public record sufficiently to enable the FOIA Coordinator to find the public record.
 - c. The requested document and/or information must exist.
 - d. The requested records should NOT be exempt from disclosure under the Act as referenced in FOIA 15.243, Sec. 13 (see attachment).
 - e. The FOIA request can be a single (one-time) request or a renewable subscription request (information disseminated on a regular basis for up to six months).
 - f. Prisoners in state or county correctional facilities are not entitled to make requests.
5. Requests for departmental information that is furnished to the general public through normal operations and MADL’s website should not be treated as a FOIA request. This includes pamphlets, loose-leaf publications, and other printed materials (e.g. reports) produced for public information and disclosure. In addition, departmental guidelines, manuals and forms, adopted or used by the Library in the discharge of its functions should also be made available without a FOIA request.

II. RESPOND TO REQUEST

- 1. The FOIA Coordinator or designee shall determine the scope of the FOIA request (e.g. the time required to search for, examine, separate/delete exempt information, and/or copy the requested records).
- 2. The FOIA Coordinator shall also determine the lowest paid employee capable of retrieving the information necessary to comply with the request.¹
- 3. The Muskegon Area District Library will charge fees for reproducing requested records in accordance with Section 4 of the FOIA. These fees shall be limited to: actual mailing costs, actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt and non-exempt information. All charged fees shall comply with the requirements of the Act.

¹ Which employee is “capable” will depend on the nature of the request. It may involve professional staff for technical matters or legal staff to resolve issues related to exemptions under the FOIA.

- a. Use the established FOIA fees as outlined in the attached fee schedule
 - b. The first \$20 of a fee shall be waived for a person who receives public assistance or presents facts showing inability to pay because of indigency (an Affidavit of Indigency should be completed) or, is a non-profit organization designated by the State to carry out activities under the Developmental Disabilities Assistance & Bill of Rights Act and the Protection & Advocacy for Individuals with mental Illness Act.
 - c. The FOIA Coordinator shall periodically review and recommend FOIA fee adjustments to the Muskegon Area District Library.
 - d. The requestor may stipulate that the records be provided electronically.
 - e. MADL may include a website link to documents in lieu of paper copies in its response to a written request.
3. In accordance with the Act (Reference 15.235, Section 5.2): Unless otherwise agreed to in writing by the person making the request, the MADL Coordinator shall **respond to the FOIA request within five (5) business days** by doing one of the following:
- a. Process and grant the request.
 - b. Issue a written notice to deny the request.
 - c. Grant the request in part and issue a written notice to deny the request in part.
 - d. Under unusual circumstances (See FOIA 15.232, Section 2.g), issue a written notice to extend the response period by ten (10) business days.
 - e. If the cost of the request is expected to exceed fifty dollars (\$50), issue a notice to the requestor to provide a fifty percent (50%) good faith deposit prior to processing the request. If the requestor has failed to pay in full for its prior requests a one-hundred percent (100%) deposit may be demanded.

III. DENIALS

1. Notices denying a FOIA request, in whole or part, shall contain a description of the denied record and an explanation for the grounds of the denial as follows:
 - a. If the public record is exempt from disclosure, the specific statutory citation for the exemption should be listed.
 - b. If the public record does not exist, a certification stating that the record does not exist under the name given by the requestor or by another name reasonably known to the public body should be included with the denial notice.

- c. If a separation or deletion is made, a description of the public record or information on the public record that is separated or deleted pursuant to section 14 should be listed.
- 2. A written notice of denial must also be accompanied by a “Right to Appeal” statement informing the requestor’s right to do either of the following:
 - a. Submit to the Muskegon Area District Library Board a written appeal that specifically states the word “appeal” and identifies the reason or reasons for reversal of the disclosure denial.
 - b. Seek judicial review of the denial under section 10 of the FOIA.
- 3. In addition, the “Right to Appeal” statement should inform the requestor of their right to receive attorney fees and damages as provided in Section 10 of the FOIA if, after judicial review, the Circuit Court determines that the public body has not complied with this Section and orders disclosure of all or portions of the public record.
- 4. The FOIA Coordinator shall, within ten (10) days after receiving written appeal, do one of the following:
 - a. Reverse the denial.
 - b. Issue written notice upholding the denial.
 - c. Reverse the denial in part and issue written notice upholding the remaining denial.
 - d. Under unusual circumstances, issue notice extending for not more than ten (10) business days the period during which the FOIA Coordinator shall respond to written appeal.

IV. RECORD THE REQUEST

- 1. MADL shall establish and maintain a FOIA log to track and record related details to verify the following:
 - a. Compliance with FOIA 15.233, Section 3.2 – A copy of all written FOIA requests for public records shall be kept on file for not less than one (1) year.
 - b. Compliance with FOIA 15.235, Section 5.2 – A public body shall respond to a request for a public record within five (5) business days after its receipt.
 - c. Compliance with FOIA 15.234, Section 4.3 – Fees shall be uniform and not dependent upon the identity of the requesting person.

2. The Muskegon Area District Library shall establish a FOIA log and should record the following items:
 - a. Date Received
 - b. Brief Description of Request
 - c. Requesting Party
 - d. Date Responded
 - e. Response Type (granted, denied, partial, extension, deposit)
 - f. Fees Charged
 - g. Fees Collected
3. In addition to the log, MADL shall keep on file a time stamped copy of all requests and responses for a period of one (1) year following their issuance. The actual materials, information or records provided to the requestor should not be copied and filed if the documents are stored and accessible through normal operations.
4. FOIA logs, requests, responses and related information must be available for review by the FOIA Coordinator upon request.
5. MADL shall comply with the following FOIA related record retention responsibilities in accordance with 15.233, Section 3.3:
 - a. Furnish the requesting person a reasonable opportunity for inspection and examination of its public records and furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours.
 - b. Make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions.
 - c. Protect public records from loss, unauthorized alteration, mutilation, or destruction.

MUSKEGON AREA DISTRICT LIBRARY

FREEDOM OF INFORMATION ACT FEE SCHEDULE

Effective: JULY 1, 2015

NOTE: This schedule **does not apply** to public records prepared by MADL under an act or statute specifically authorizing the sale of those public records to the public **or** to fees that have been established and approved as part of the MADL operating revenue.

<u>Type of Reproduction</u>	<u>Cost</u>	<u>Unit</u>
Copies of a Document	\$.10	per page
Additional Copies of the Same Document	\$.10	per page
Labor incurred in examination, review, separation, deletion, etc. ²	hourly	per 15 minute unit
Labor in duplication unit	hourly	per 15 minute
Computer process time	hourly	per 15 minute unit
Postage charges with postal delivery confirmation per mailing		Actual
Other costs (disks, slides, tapes, etc)	Actual	per item

Waivers

The first \$20 of the fee shall be waived for each request of an individual who submits an "Affidavit of Indigency" stating that they are receiving public assistance or facts showing inability to pay the full cost, or, is a non-profit organization designated by the State to carry out activities under the Developmental Disabilities Assistance & Bill of Rights Act and the Protection & Advocacy for Individuals with Mental Illness Act..

² The labor cost listed is a minimum and may increase based upon the cost associated with the lowest wage paid to the employee capable of retrieving the information necessary to comply with the request. This may involve professional staff for more technical requests or legal staff to resolve issues related to exemptions under the FOIA. MADL will not charge a fee for separating exempt from non-exempt material unless it would result in identifiable and an unreasonably high cost to MADL.

A waiver of fees will **not** be provided to an indigent person requesting additional copies of identical documents previously provided with a waiver of fees pursuant to a prior request under the FOIA.

Deposits

If the fee for the search and providing the public information exceeds fifty dollars (\$50), a deposit of one-half (1/2) the estimated fee is required.

Other

Fees must be paid in full prior to the actual delivery of the public information or copies.

FREEDOM OF INFORMATION ACT

NOTICE OF RIGHT TO APPEAL

After notification of a denial of a Freedom of Information Act request, the requesting party has the right to undertake either of the following actions to appeal the decision:

- a. Submit to the Muskegon Area District Library Board, a written appeal that specifically states the word “appeal” and identifies the reasons for the reversal of the disclosure denial to :
Attn: Muskegon Area District Library
4845 Airline Road
Muskegon, Michigan 49441
- b. Seek judicial review under Section 10 of the FOIA.

The requesting party also has the right to receive attorney’s fees and damages as provided in Section 10 of the FOIA if, after judicial review, the Circuit Court determines that the public body has not complied with this Section and orders disclosure of all or portions of the public record.