**Lansing Community College Freedom of Information Act Procedures and Guidelines**

**Procedure:** Freedom of Information Act Requests

**Effective Date:** July 1, 2015

Lansing Community College fully complies with the Michigan Freedom of Information Act FOIA.

Section 1 of FOIA provides,

"It is the public policy of this state that all persons, except those persons 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 public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.”

A copy of the Michigan Freedom of Information Act, Act 442 of the Public Acts of Michigan of 1976, as amended (“FOIA” or the “Act”), is at: [http://www.legislature.mi.gov/(S(wnvxbvt5s5vbtn0ttsv4mwnm))/mileg.aspx?page=GetObject&objectname=2013-HB-4001](http://www.legislature.mi.gov/%28S%28wnvxbvt5s5vbtn0ttsv4mwnm%29%29/mileg.aspx?page=GetObject&objectname=2013-HB-4001)

[**and http://www.legislature.mi.gov/(S(t0gro40q5bb2fipt2jyshnsv))/documents/mcl/pdf/mcl-Act-442-of-1976.pdf**](file:///C%3A%5CUsers%5Cbeauboej%5CDocuments%5Cand%20http%3A%5Cwww.legislature.mi.gov%5C%28S%28t0gro40q5bb2fipt2jyshnsv%29%29%5Cdocuments%5Cmcl%5Cpdf%5Cmcl-Act-442-of-1976.pdf)

***Note: The Act does not obligate LCC 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, therefore, a document disclosure statute. Consequently, the College’s FOIA Coordinator need not answer questions contained in requests, or inquiries about the content of the records.***

***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 Office of Risk Management and Legal Services, the College’s 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.***

**A. Appointment of FOIA Coordinator.**

In accordance with Section 6 of the FOIA, MCL 15.236, Lansing Community College has appointed a FOIA Coordinator, as well as an alternate FOIA Coordinator. The names of the FOIA Coordinator and alternate FOIA Coordinator are available on the College’s website at [lcc.edu](http://www.lcc.edu)/FOIA .The names of the FOIA Coordinator and alternate FOIA Coordinator are also available in the College’s Human Resources Office.

**B. Submission of FOIA Request.**

Requests should state that they are submitted pursuant to the Michigan Freedom of Information Act (FOIA). Requests shall sufficiently describe the record to enable the FOIA Coordinator to identify and locate the record. Forms for utilization of FOIA procedures are available from the FOIA Coordinator.

FOIA requests should be addressed to the College’s FOIA Coordinator and may be sent by email, fax, or mail to:

Email: beauboeufj@lcc.edu or gordonl5@lcc.edu

Mail: Lansing Community College
 Attn: Risk Management and Legal Services
 309 N. Washington Sq. Ste. 150
 Lansing, MI 48933

Fax: 517-483-1384

Requests must clearly state that it is made pursuant to FOIA and should include a name, phone number, and mailing address. A copy of a sample of the form the College uses in conjunction with the FOIA is available upon request.

**C. Immediately Forward FOIA Request.**

Any College employee who receives a written request for a public record must immediately forward that request to the FOIA Coordinator. Requests made by fax, e-mail, or other electronic means shall be deemed received by the FOIA Coordinator one business day after the date the electronic transmission is made and shall be handled in the same manner as a written request. If an 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 date and time the employee first becomes aware of the written request. The employee must forward those dates and times to the FOIA Coordinator along with the written request.

**D. The College’s Response to FOIA; Time; Inspection of Records.**

The FOIA Coordinator shall maintain a log of all written requests received showing the nature and date of the request, determination of disposition, date of disposition and manner of final response to the FOIA request.

1. **Time for Response**. The FOIA Coordinator shall, no more than five business days after the request has been made, unless a single extension of not more than ten business days has been issued, or where the time limits have been agreed to upon in writing by the requesting person, provide one of the following responses:
	1. **Grant the Request**. A copy of the request for a public record along with all of the requested documents shall be sent to the person who requested the records on a response for public records form.
	2. **Deny the Request**. The FOIA Coordinator shall sign and state the reasons for denial including an explanation of the requesting person’s right to seek a non‐mandatory appeal from the FOIA Coordinator’s decision to the College’s Board of Trustees or a judicial review of the decision with the Ingham County Circuit Court. Failure to timely respond to the request constitutes denial. Denial may be made because, among other reasons, the record does not exist, it cannot be sufficiently identified from the description contained in the request, or the record is exempt.
	3. **Grant the Request in Part and Issue a Written Notice to the Requesting Person Denying Such a Request in Part**. Material which is partially exempt and partially subject to disclosure shall be separated or deleted and the non‐exempt material offered for copying or inspection. A general description of the separated or deleted information shall be provided to the requesting person, unless doing so would reveal the contents of the exempt information.

If the College issues a ten business day extension, the College’s written response to the FOIA request shall include an estimate as to when the College will provide the records to the requesting person.

Due to the short statutory time period within which the College must issue a written notice in response to the FOIA request, it is imperative that there be no delay in complying with the College’s Procedures.

**2. Response to a FOIA Request.**

Only the College’s FOIA Coordinator or alternate FOIA Coordinator will respond to FOIA requests. The College will provide copies of these Procedures and a summary of these Procedures 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 College will provide the requester with an explanation of the basis for the denial under the FOIA, and give notice to the requester of his or her remedial rights as set forth in Section G below. MCL 15.235(5)(d).

**3. Notification of FOIA Request; Division Response to College’s FOIA Coordinator.**

Upon receipt of a FOIA request, the College's FOIA Coordinator will email or fax the division or divisions that might possess records responsive to the FOIA request.

As soon as possible, but not later than two business days before the College's FOIA response is due, the division's response is due to the FOIA Coordinator.

**4. Inspection of Records.**

If a request is received to review records, facilities should be made available to inspect records during the College’s normal business hours and when the records can be reasonably made available. The person who wishes to inspect records shall submit a request form describing the requested documents prior to the College allowing the inspection of the records.

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."

To that end, the College establishes the following procedure for inspection of College records.

a. Original records shall not be marked, defaced, destroyed, or otherwise altered. Any person examining public records shall bring to the examination only an erasable pencil with which to make notes or lists, etc. No pens or indelible writing instruments are allowed. No notes or writing of any kind shall be made on the documents themselves.

b. A College official or staff member (if any) must be present at all times during the inspection of College records if any original records are involved, to protect the records from loss, unauthorized alteration, mutilation, or destruction. In order to defray the College’s cost of this monitoring service, a fee shall be paid to the College for personnel time, as provided in Section E of these Procedures.

c. Original records shall not be removed from the area provided for inspection and note taking. Original documents may be removed from and replaced in College files only by authorized College officials or personnel.

d. The FOIA Coordinator will determine, on a case-by-case basis, whether a requesting person may inspect an original public record, or only a copy of the record. A fee may be charged for copies made to enable public inspection of records, in accordance with Section E of these Procedures. Situations where original records are likely to require copying prior to inspection include the following:

(1) The records include exempt information that must be redacted.

(2) The records are old or delicate, or contain information that could not easily be replicated.

(3) The records are in digital format or are part of a database not available for public inspection.

(4) Providing copies would be less disruptive to the performance of College functions than providing the necessary staffing for oversight required for inspection of original records.

e. The FOIA Coordinator will make reasonable efforts to allow a requesting person to inspect records for up to four hours per appointment; provided, however, that inspections will be cut short, postponed or rescheduled when necessary to avoid unreasonable interference with the College staff’s performance of their primary functions.

**E. Assessment of Fees for a FOIA Request.**

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

It is hereby determined that devoting more than one hour to responding to a FOIA request will result in unreasonably high costs to the College unless the cost of such search is borne by the requesting person. The College shall provide a written estimate of such charges to the requesting person.

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 will be uniform and not dependent upon the identity of the requesting person.
2. Fees will be itemized using a reasonably detailed itemization of fees and will include:
3. Labor costs for the search, location, and examination of public records.
4. Labor costs for the review of public records and separation and deletion of exempt from nonexempt material. The review and separation of exempt from non-exempt information may be performed by a College official or employee or, if necessary, outside legal counsel.
	* 1. For services performed by a College official or employee, the College will charge in accordance with Section E.3. (below) of these Procedures.
		2. For services performed by outside legal counsel, as determined by the FOIA Coordinator on a case-by-case basis, the College may charge the legal counsel’s time; provided, however, that such time to be charged shall not exceed an amount equal to 6 times the then-current state minimum hourly wage rate determined under Section 4 of the Workforce Opportunity Wage Act, Act 138 of the Public Acts of Michigan of 2014 (“Act 138”), as that rate may change from time to time. As of the date of adoption of these Procedures, the wage rate is $8.15. If the rate increases under Act 138, the rate changed under these Procedures shall automatically change without action by the College Board of Trustees or amendment of these Procedures. In charging such time for outside legal counsel, the College will provide notice to the requesting person of the name of the contracted person or firm in the College’s detailed itemization of costs required by the Act. The charges for such services will be billed in increments of 15 minutes or more and all partial time increments will be rounded downward.

No charge will be made for the redaction of documents if the College previously redacted the public record in question and the redacted version is still in the College’s possession.

The College shall itemize both the hourly wage and the number of hours charged for these costs.

1. 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 non-paper physical media or through electronic means.
2. Non-paper physical media costs will be calculated using the actual and most reasonably economical cost of computer discs, computer tapes, and other digital and similar media provided by the College.
3. Duplication and publication costs will 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 will not exceed 10 cents per sheet of paper for letter or legal size paper. The College shall use the most economical means available for making copies, including the use of double-sided printing, if cost-saving and available to the College.
4. Actual costs of mailing using a reasonably economical and justifiable manner. The College will not send documents to the requesting person via overnight delivery service or expedited shipping (or obtain shipping insurance on such mailing) unless the requesting person specifically requests such services in writing and agrees to pay for such costs.
5. The College will charge the hourly wage of its lowest-paid employee capable of performing the tasks identified in E.2.a.-c., above, and E.4, below, regardless of whether that person is available or who actually performs the labor. The College will estimate such labor charges. The labor charges will be billed in increments of 15 minutes or more and all partial time increments will be rounded downward. The College will itemize both the hourly wage and the number of hours charged for these costs. The College will include in the applicable labor charge an amount not to exceed one-half (50 percent ) of the applicable hourly wage to cover (or partially cover) the cost of the fringe benefits (if any) for the lowest-paid employee; provided, however, that such amount shall not exceed the actual costs of the fringe benefits. Overtime charges for the applicable employee will not be charged unless the requesting person agrees in writing to pay such charges. The 50 percent multiplier used to account for the lowest-paid employee’s fringe benefits is included in the detailed itemization of costs provided by the College to the requesting person. The hourly wage will be based on the College's payroll records for the applicable fiscal year.
6. Labor costs for monitoring an inspection of original records will be calculated in accordance with Section E.3 above. Labor costs for monitoring an inspection will not be charged for the first hour.
7. The College may waive all or a portion of the fees for the search and copying of records if the College 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. A public record search shall be made and a copy of a public record shall be furnished without charge for the first $20.00 of the fee in case of indigence, or a non-profit agency formally designated to carry out the activities of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, as provided in Section 4(2) of the Act. 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.
8. 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 College will charge the statutory fee in lieu of a fee calculated using the guidelines set forth above.

**F. Deposit Requirements.**

If the College estimates that the fee to process a FOIA request will be greater than $50.00, the College will require a good-faith deposit from the requestor before providing the public records to the requestor. 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 College regarding the time frame after a deposit is received that it will take the College to provide the public records to the requestor. The time frame estimate is not binding upon the College, but the College shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this State's public policy under section 1 of the FOIA, MCL 15.231, and the nature of the request in the particular instance.

**G. Appeal Rights under FOIA - Appeals of Fees and Disclosure Determinations.**

1. **Appeal of Denial of Request**. If a person’s request for a public record is denied, in whole or in part, the person may file a written appeal of the decision in accordance with the following process:
	1. The appeal must be submitted in writing to the College Board of Trustees, to the attention of the FOIA Coordinator.
	2. The written appeal must specifically state the word “appeal” and identify the reason or reasons for the reversal of the denial.
	3. Where a written appeal is received by the FOIA Coordinator consistent with these Procedures and the Act, the College Board of Trustees shall either: (a) place the appeal on the agenda for the next regularly scheduled meeting, to be decided within ten business days thereafter; or (b) schedule a special meeting to consider the appeal, which special meeting should be held no later than ten business days following the next regularly scheduled meeting.
	4. The College Board of Trustees may deliberate and shall take one of the following actions in response to the filing of an appeal:
		1. Reverse the denial.
		2. Issue a written notice to the requestor affirming the denial.
		3. Reverse the denial in part and issue a written notice to the requestor affirming the denial in part.
		4. Under unusual circumstances, issue a notice extending not more than ten business days; the period during which the College Board of Trustees shall respond to the written appeal. Only one written notice extending the response time is allowed.
2. **Fee Appeal**. A requesting person may appeal the amount of a fee if that fee exceeds the amount permitted under these Procedures and FOIA.
	1. An appeal on the amount of the fee may be made to the College Board of Trustees in accordance with the provisions of Section G.1., above. In the fee appeal, the requesting person must specifically include the word “appeal” and identify how the required fee exceeds the amount permitted under these Procedures or the Act.
	2. Notwithstanding G.2., above, and in accordance with FOIA, a requesting person may commence a civil action in the Ingham County Circuit Court for a fee reduction; provided, however that such appeal must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the College Board of Trustees. If the requesting person files a fee appeal with the Circuit Court, the College will not complete the processing of the written request for the public record at issue until the court resolves the fee dispute.
	3. Within 10 business days after receiving a written appeal under subsection G.2.b, above, the College Board of Trustees shall do one of the following:
3. Waive the fee.
4. Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 of FOIA and these Procedures that supports the remaining fee. The determination shall include a certification from the FOIA Coordinator, on behalf of the College Board of Trustees, that the statements in the determination are accurate and that the reduced fee amount complies with the Procedures and Section 4 of the Act.
5. Uphold the fee and issue a written determination to the requesting person indicating the specific basis under Section 4 of the Act that supports the required fee. The determination shall include a certification from the FOIA Coordinator, on behalf of the College Board of Trustees, that the statements in the determination are accurate and that the fee amount complies with the Procedures and Section 4 of the Act.
6. Issue a notice extending for not more than 10 business days; the period during which the College Board of Trustees must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The College Board of Trustees shall not issue more than one notice of extension for a particular written appeal.
	1. In accordance with FOIA, the College Board of Trustees is not considered to have received a written fee appeal until the first regularly scheduled meeting of the College Board of Trustees following submission of the written appeal.
	2. In accordance with Section 4(13) of FOIA, a deposit required to be paid by the College is considered a “fee.”
7. An appeal from a determination by the FOIA Coordinator or from a decision of the College Board of Trustees may be taken to the Ingham County Circuit Court.

**H. Amendments to Procedures**

The College may amend or supplement this policy, from time to time, in the College’s sole discretion.

**I. Availability of Procedures; Summary**

A copy of these Procedures and a summary of these Procedures shall be available at the College’s Administrative office and posted on the College’s website at lcc.edu/FOIA in accordance with the FOIA.