

**WAYNE COUNTY COMMUNITY COLLEGE DISTRICT**  
**801 W. Fort St., Detroit, MI 48226**

**Freedom of Information Act Procedures and Guidelines**

**I. DEFINITIONS:**

**Fees** means the amount the College charges to a FOIA requestor in order to process the FOIA request.

**FOIA Coordinator** means the person designated by the Chancellor with the primary responsibility to accept and process requests for public records.

**FOIA Request** means a written request submitted to the College that sufficiently describes a public record. FOIA requests should be submitted via fax, e-mail, or regular mail.

**Person** means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

**Public Record** means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function. Public record does not include computer software. The FOIA separates public records into the following 2 classes:

- (i) Those that are exempt from disclosure under Section 13.
- (ii) All public records that are not exempt from disclosure under Section 13 and which are subject to disclosure under the FOIA.

**Requestor** means the person making the request for documents under the FOIA.

**Writing** means handwriting, typewriting, printing, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content. A writing is also information contained in a database or electronic records.

**II. SUBMITTING A FOIA REQUEST TO WAYNE COUNTY COMMUNITY COLLEGE DISTRICT**

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed, or retained by the College must be submitted in writing.
- A request must sufficiently describe a public record so as to enable the College to find it.

- No specific form to submit a written request is required.
- Written requests can be made by e-mail to the College’s FOIA Coordinator, Tina Bassett, at [TB@BassettBassett.com](mailto:TB@BassettBassett.com), via fax to 313-965-3016, or via regular mail to:

Tina Bassett  
FOIA Coordinator  
1630 First National Building  
660 Woodward Avenue  
Detroit, MI 48226

To ensure prompt response, requests should contain the term “FOIA” or “FOIA Request” in the subject line.

### **III. RESPONSES TO YOUR REQUEST**

- The FOIA Coordinator shall review the request and determine whether the College possesses nonexempt records responsive to the request. The FOIA does not require the College to make a compilation, summary, or report, nor does it require the College to create a new public record. The College is also not required to obtain a requested public record from outside the College, including from another agency or an entity under contract with the College.
- Within five (5) days of receipt of a FOIA request, the College will issue a response.
- The College will respond to your request in one of the following ways:
  - Grant the request.
  - Issue a written notice denying the request.
  - Grant the request in part and issue a written notice denying in part the request, which can include redacted records.
  - Issue a notice indicating that due to the nature of the request the College needs a one-time extension of ten (10) business days to respond.
  - Issue a written notice indicating that the public record requested is available at no charge on the College’s website.
- If the request is granted, or granted in part, the College will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50.00, or if you have not paid for a previously granted request, the College will require a deposit before processing the request.
- Depending on the request, the College will either provide copies of the requested nonexempt public records or allow the requestor to inspect those records during normal business hours. The FOIA Coordinator will remove exempt material prior to the inspection. There is no charge for inspection of documents, although a fee will be charged if it is

necessary to make a copy of a document in order to delete a portion that is exempt. There may be a charge to supervise the inspection of records.

#### **IV. THE COLLEGE'S FEE DEPOSIT REQUIREMENTS**

- If the College estimates that the total fee for processing the request exceeds \$50.00, the College will require that you provide a deposit in the amount of 50% of the total estimated fee. When the College requests the deposit, it will provide you a non-binding estimate of how long it will take to process the request following receipt by the College of your deposit.
- The College may require a deposit of 100% from a requestor who has not paid a previous FOIA fee in full to the College before the College begins another search for that requestor. The College will only require this 100% deposit if all of the following apply:
  - The final fee for the prior written request is not more than 105% of the estimated fee.
  - The public records made available contained the information sought in the prior written request and remain in the College's possession.
  - The public records were made available to the individual, subject to payment, within the time frame estimated by the College to provide the records.
  - 90 days have passed since the College notified the individual in writing that the public records were available for pickup or mailing.
  - The individual is unable to show proof of prior payment to the College.
  - The College has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The College will not require the 100% estimated fee deposit if any of the following apply:
  - The person making the request is able to show proof of prior payment in full to the College.
  - The College is subsequently paid in full for all applicable prior written requests.
  - 365 days have passed since the person made the request for which full payment was not remitted to the College.

#### **V. HOW THE COLLEGE CALCULATES FOIA PROCESSING FEES**

- A fee will not be charged for the cost of searching, examining, reviewing, and deleting and separating exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the College due to the nature of the particular request, and the College specifically identifies the nature of the unreasonably high costs.
- The Michigan FOIA statute permits the College to assess and collect a fee for six designated processing components. The College may charge for the following costs associated with processing a request:
  - Labor costs associated with searching for, locating, and examining a requested public record.

- Labor costs associated with a review of a record to separate and delete information exempt from disclosure from information that is disclosed.
  - Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public record to non-paper physical media or through the Internet.
  - The cost of computer discs, computer tapes, or other digital or similar media when the requester asks for records in non-paper physical media.
  - The cost of duplication or publication, not including labor, of paper copies of public records.
  - The cost to mail or send a public record to a requestor.
- Labor Costs:
    - All labor costs will be estimated and charged in 15-minute increments with all partial time increments rounded down.
    - Labor costs will be charged at the hourly wage by the lowest-paid College employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
    - Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. The College may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
    - Overtime wages will not be included in labor costs until agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.
    - Contracted labor costs will be charged at six (6) times the state minimum hourly wage.
- Non-Paper Physical Media:
    - The cost for records provided on non-paper physical media, such as computer discs, computer tapes, or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
    - The requestor may stipulate that the records will be on non-paper physical media, emailed, or otherwise electronically provided.
    - This cost will only be assessed if the College has the technological capability necessary to provide the public record in the requested non-paper physical media.
- Paper Copies:
    - Paper copies of public records made on standard letter (8 ½ x 11), legal (8 ½ x 14), or tabloid (11 x 17) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
    - The College may provide records using double-sided printing, if it will reduce costs and is available.
- Mailing Costs:

- The cost to mail public records will use a reasonably economical and justified means.
- The College may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless requested.
- If the FOIA Coordinator does not respond to a written request in a timely manner, the following shall be required:
  - Reduce the labor costs by 5% for each day the College exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
    - The late response was willful and intentional.
    - The written request, within the first 250 words of the body of a letter, fax, e-mail, or e-mail attachment conveyed a request for information.
    - The written request included the words, characters, or abbreviations for “freedom of information”, “information”, “FOIA”, “copy”, or a recognizable misspelling of such or legal code reference to MCL 15.231 et seq or 1976 Public Act 442 on the front of an envelope or facsimile cover page.

**VI. HOW YOU CAN QUALIFY FOR A REDUCTION OF THE PROCESSING FEES**

- The College may waive or reduce the fee associated with a request when the College determines that doing so is in the public interest.
- The College will waive the first \$20 of the processing fee for a request if you submit an affidavit stating that you are:
  - Indigent and receiving public assistance; or
  - If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.
- You are not eligible to receive the \$20.00 waiver if you:
  - Have previously received discounted copies of public records from the College twice during the calendar year; or
  - Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- The College will waive the fee for a nonprofit organization which meets all of the following conditions:
  - The organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402) and the Protection and Advocacy for Individuals with Mental Illness Act (Public Law 99-319) or their successors.
  - The request is made directly on behalf of the organization or its clients.
  - The request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code.

- The request is accompanied by documentation of the organization’s designation by the State.

## **VII. HOW YOU CAN CHALLENGE A DENIAL OF A PUBLIC RECORD**

- Appeal of a Denial of a Public Record:
  - If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may file an appeal of the denial with the Chancellor via the FOIA Coordinator. The appeal must be in writing, specifically state the word “appeal,” and identify the reason or reasons you are seeking a reversal of the denial. Within ten (10) business days of receiving the appeal, the Chancellor, via the FOIA Coordinator, will respond in writing by:
    - Reversing the disclosure denial;
    - Upholding the disclosure denial;
    - Reversing the disclosure denial in part and upholding the disclosure denial in part; or
    - Under unusual circumstances, issue a notice extending the appeal period for not more than ten business days.
  - Whether or not you submitted an appeal of a denial, you may file a civil action in Wayne County Circuit Court within 180 days after the College’s final determination to deny your request. Should you prevail in the civil action the court will award you reasonable attorneys’ fees, costs, and disbursements. If the court determines that the College acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.00. If a court finds the College acted willfully, intentionally or in bad faith, the College may be ordered to pay a civil fine of \$2,500.00 to \$7,500.00.
- Appeal of an Excessive FOIA Processing Fee:
  - If you believe that the fee charged by the College to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a fee reduction to the Chancellor via the FOIA Coordinator. The appeal must be in writing, specifically state the word “appeal” and identify how the required fee exceeds the amount permitted. Within ten (10) business days after receiving the appeal, the Chancellor, via the FOIA Coordinator, will respond in writing by:
    - Waiving the fee;
    - Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
    - Upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
    - Issuing a notice detailing the reason or reasons for extending for not more than ten (10) business days the period during which the Chancellor will respond to the written appeal.
  - Within 45 days after receiving notice of the Chancellor’s determination of the processing fee appeal, you may commence a civil action in Wayne County Circuit

Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or an appropriate amount of reasonable attorneys' fees, costs, and disbursements. If the court determines that the College acted arbitrarily and capriciously by charging an excessive fee, the court may also award you punitive damages in the amount of \$500.00.

## VIII. DOCUMENTS EXEMPT FROM DISCLOSURE

- The following is a non-exhaustive list of common exemptions and examples of the items to which the exemptions may apply:
  - Clearly unwarranted invasions of an individual's privacy. Exemption 13(1)(a).
    - Examples – Home addresses and home telephone numbers, personal cellular phone numbers.
  - Certain investigative records compiled for law enforcement purposes, subject to additional considerations. Exemption 13(1)(b).
  - Information which is preliminary to a final agency decision unless it is purely factual and the public interest warrants disclosure. Exemption 13(1)(m).
    - Examples – Interview notes, internal affairs, harassment and sexual harassment investigations prior to completion. (Note: Portions or all of an investigation may be exempt after completion for other reasons, e.g., privacy or security concerns.)
  - The FOIA also permits exemption of documents or information specifically exempted from disclosure by another statute. Exemption 13(1)(d).
    - Examples – Documents and/or information protected under the Mental Health Code or the Family Educational Rights and Privacy Act.
  - Information which is subject to a specific privilege (e.g., attorney-client, doctor-patient, psychologist-patient), except if the requestor has a signed release from the client or patient that is Health Insurance Portability and Accountability Act compliant. Exemption 13(1)(g) & (h).
  - Information related to a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body. Exemption 13(1)(u).
  - Information related to a civil action in which the requesting party and the public body are parties. Exemption 13(1)(v).
  - Information or records that would disclose the Social Security number of any individual. Exemption 13(1)(w).

- Information or records relating to a civil court action in which the requesting party and the public body are parties.

### **Freedom of Information Act Written Public Summary**

The Freedom of Information Act (which is referred to as “FOIA” in this summary) governs public records that are writings prepared, owned, used, in the possession of, or retained by the College in the performance of its official functions. If a person requests in writing that the College provide public records to that person, FOIA requires that the College provide those public records subject to certain exceptions and requirements.

There are certain types of information that FOIA exempts from disclosure and thus are not required to be produced by the College. Examples of exempt information include information subject to the attorney-client privilege, social security numbers, personal home addresses and phone numbers, and details related to current College security procedures.

The College may charge a fee to process a FOIA request and require a person to pay a deposit in order for the College to process a FOIA request. If the requestor disagrees with the College’s decision to deny his or her FOIA request, or if the requestor disagrees with the fee the College will charge, the requestor can challenge the College’s decision.

The following summary is meant to explain the College’s FOIA procedures and guidelines so that the public can better understand (i) how to submit a FOIA request to the College, (ii) the College’s response to a FOIA request, (iii) the College’s fee calculations, (iv) the College’s deposit requirements and (v) the avenues for challenging the College’s response to a FOIA request.

#### **A. How to Submit a Written Freedom of Information Act Request to Wayne County Community College District**

A FOIA request must be submitted in writing to the College via electronic or regular mail. In most cases, any written request for a document will be considered a FOIA request, regardless of whether the FOIA is mentioned. The most direct way for a person to submit a written FOIA request is to submit the request to the College’s FOIA coordinator, Tina Bassett, at [TB@BassettBassett.com](mailto:TB@BassettBassett.com), or via regular mail to:

Tina Bassett  
FOIA Coordinator  
1630 First National Building  
660 Woodward Avenue  
Detroit, MI 48226

#### **B. The College’s Response to a FOIA Request**

FOIA requires that the College respond to a FOIA request within five business days after the College received the request. The College may take a ten-business day extension to respond to

a FOIA request, but it must send the requestor notification of the extension within the first five-day period.

The College will review a FOIA request and determine whether the College possesses records responsive to the request. Importantly, the FOIA does not require the College to make a compilation, summary or report of information nor does it require the College to create a new public record. Also, if the College does not have the document requested, the College is not required to obtain it from outside the College, including from another agency or an entity under contract with the College.

If the College possesses responsive records, the College will carefully review those records to ensure information and documents exempt from disclosure are not provided. (As a reminder, FOIA lists certain information that is exempt from disclosure). If more than one exemption applies to a particular request, the College will explain the reason for all the applicable exemptions when responding to a FOIA request. If only a portion of a document is exempt, the College will redact the exempt portion and the nonexempt portion of the document will be provided.

### **C. The College's Fee Calculations**

Under certain circumstances, the College may charge a fee to process a FOIA Request. A person is not charged for the first \$20.00 of a FOIA fee where (a) a requestor has submitted an affidavit verifying that he/she is indigent and receiving public assistance or sufficiently stating facts showing an inability to pay the cost due to indigence, or (b) the requestor is formally designated by the state to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection of Advocacy for Individuals with Mental Illness Act, the request is made directly on behalf of such a requestor or its clients for a reason wholly consistent with the mission and provision of Section 931 of the Mental Health Code, and is accompanied by documentation of its designation by the State if requested by the College. Questions concerning the waiver of fees should be directed to the FOIA Coordinator.

In cases where a fee will be charged, the College's response will state the amount assessed and indicate that the documents will be provided after payment is received in full. If the amount assessed will exceed \$50.00, exclusive of any waived amounts, a 50 percent deposit may be required before processing of the request begins. Upon completion of processing, the balance must be paid before the documents are delivered to the requestor.

The College may include charges for the following when calculating the estimated and/or actual fee:

**1. Labor costs directly associated with the necessary searching for, locating, and examining of public records.** This portion of a fee will not exceed the hourly wage of the lowest paid employee capable of performing the task. It will be calculated in increments of 15 minutes, with partial time rounded down. It may include up to 50% of the applicable labor charge for fringe benefits. It will not include overtime unless the requestor agrees.

**2. Labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information.** If performed by a College employee, these labor costs will not exceed the hourly wage of the lowest paid employee capable of performing the tasks. If these labor costs are incurred through contracting with a third party to perform the labor the name of the contracted laborer or firm performing labor will be provided. Contracted labor may not exceed 6 times the State minimum wage. It will be charged in 15-minute increments, with partial time rounded down. It may include up to 50% of the applicable labor charge for fringe benefits. It will not include overtime unless the requestor agrees.

**3. Actual and most reasonably economical cost of the computer disks, computer tapes, or other digital or similar media.** This portion of the fee is only applicable for public records provided on non-paper physical media. The requestor may agree that the records will be on non-paper physical media, emailed, or otherwise electronically provided. Also, it only applies if the College has the technological capability necessary to provide records in the requested electronic format.

**4. Actual total incremental cost of necessary duplication or publication, not including labor.** This portion of the fee is only applicable for paper copies of public records. The College will charge a maximum of \$0.10 per sheet for 8 ½ by 11 inch, 8 ½ by 14 inch, or 11 by 17 inch paper and will charge the actual cost of all other types of paper. The College will use the most economical means available, including double sided printing.

**5. Labor costs directly as with duplication or publication, including making paper copies, making digital copies, or transferring digital public records.** This portion of the fee will not exceed the hourly wage of the lowest paid employee capable of performing the task. It will be charged in 15-minute increments, with partial time rounded down. It may include up to 50% of the applicable labor charge for fringe benefits. It will not include overtime wages unless the requestor agrees.

**6. Actual cost of mailing, if any, for sending the public records in a reasonably economical manner.** The College may charge for the least expensive form of postal delivery confirmation.

When the College charges a fee, it will include the details of the fee charged on a form the College uses called the Statement of Fees for Freedom of Information Acts Requests. This form also includes a Fee Itemization form that has a breakdown of the figures used to calculate the total of each fee category.

#### **D. The College's Deposit Requirements**

If a fee will exceed \$50.00, exclusive of any fee amount the College may waive, the College may require a 50% fee deposit before it begins to process a FOIA request. If a deposit is required, the College will also include a non-binding, best efforts estimate regarding the time frame it will take the College to provide the public records to the requestor.

If the College requires a fee deposit, the requestor must submit cash (in person only), a money order, or a check payable to: "Wayne County Community College District" with "FOIA Request" as well as the date of the request printed in the memo line on the check. Mail a copy of the Freedom of Information Act Request Detailed Cost Itemization form and your money order or check to:

Tina Bassett  
FOIA Coordinator  
1630 First National Building  
660 Woodward Avenue  
Detroit, MI 48226

Under certain circumstances, the College may require a deposit of 100% from a requestor who has not paid a previous FOIA fee in full to the College before the College begins another search for that requestor. The College will only require this 100% deposit if all of the following apply: (a) the previous final fee was not more than 105% of estimated fee; (b) records made available contained the information being sought in prior request and are still in the College's possession; (c) public records were made available to the requestor subject to payment within the time frame estimate; (d) 90 days have passed since written notification to the requestor that the records were available; and (e) the requestor is unable to show proof of prior payment to the College.

The College will not require an increased deposit due to failure to pay if any of the following apply: (a) the requestor can show proof of prior payment in full; (b) the College is subsequently paid in full; (c) three hundred sixty-five (365) days have passed since the requestor made the written request for which full payment was not remitted.

After the College finishes processing a FOIA request for which the requestor provided a fee deposit, the requestor must pay the remaining balance of the actual fee before the College provides the documents to the requestor.

#### **E. Avenues for Challenge and Appeal**

A requestor whose request has been denied in full or in part, or who believes the fee the College has required exceeds the amount permitted by law, may appeal the denial or fee to the Chancellor of the College via the FOIA Coordinator. The appeal shall state the word "appeal" and identify the reasons why the denial should be reversed or why the fee is excessive.

Within 10 business days after receipt of the appeal: (1) the Chancellor, via the FOIA Coordinator, may reverse the initial denial determination, uphold the initial denial determination, or a combination of both; and/or (2) waive, reduce, or uphold the fee; or (3) issue a notice extending the College's response time up to 10 business days and provide the reason why such an extension is necessary. In upholding or reducing a fee, the Chancellor must provide a written determination providing the basis for the fee amount. The Chancellor will also certify that the statements included in the written determination are accurate and that the College's fee complies with the College's FOIA procedure and guidelines and FOIA itself.

A requestor whose request has been denied in full or in part, or who believes the fee the College has required exceeds the amount permitted by law, may also file an action in Wayne County Circuit Court. Such a filing must be within 180 days after the date of the final determination to deny the FOIA request or within 45 days after receiving a notice of required fees or a determination of an appeal to the Chancellor. If the requestor prevails in such an action, the court may reduce the fee and/or award reasonable attorney fees, costs, and disbursements. Further, if the court finds the College's determination to be arbitrary and capricious, the requestor may receive punitive damages of \$1,000.00 related to a denial or \$500.00 related to an excessive fee. If a court finds the College acted willfully, intentionally or in bad faith, the College may be ordered to pay a civil fine of \$2,500.00 to \$7,500.00.