

Public Summary of FOIA Procedures and Guidelines

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is the Written Public Summary of Monroe County Community College's FOIA Procedures and Guidelines relevant to the general public.

This is only a summary of Monroe County Community College's FOIA Procedures and Guidelines. For more details, go to: www.monroeccc.edu/freedom-of-information-act.

What is a public record?

The Michigan FOIA broadly defines a public record 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."

Please note that the college is not required to make a compilation, summary or report of information, or to create a new public record.

How do I submit a FOIA request to Monroe County Community College?

- A request for records should be as specific as possible. The law states that requests should describe "a public record so as to enable the public body to find the public record."
- Requests must be in writing, should state that it is a "Freedom of Information" or "FOIA" request, and be submitted by **personal delivery, mail** or **email** to:

Joe Verkennes
Director of Marketing and Communications
Freedom of Information Act Coordinator
Monroe County Community College
1555 S. Raisinville Rd., Monroe, MI 48161
734.384.4207
jverkennes@monroeccc.edu.

- Requests may be faxed to: (734) 384-4211. To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.

What kind of response can I expect to my request?

- Within 5 business days after receiving a FOIA request, MCCC will issue a response. If a request is received by fax or email, the request is deemed to have been received on the following business day. MCCC 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,
 - Issue a notice extending for not more than 10 business days the period during which the college will respond to the request;
 - Issue a notice requesting clarification of a request;
 - Request a good-faith deposit if the cost of processing a request is expected to exceed \$50 and provide a written estimate of the costs;
 - Issue a written notice indicating that the public record requested is available at no charge on Monroe County Community College's website.
- If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, MCCC will require a deposit before processing the request.

What are Monroe County Community College's deposit requirements?

- If MCCC makes a good faith calculation that the total fee for processing the request will exceed \$50, it may require that you provide a deposit in the amount of 50 percent of the total estimated fee. When MCCC requests the deposit, it will provide you a non-binding written estimate of how long it will take to process the request after you have paid your deposit.
- If MCCC receives a request from a person who has not paid the college for copies of public records made in fulfillment of a previously granted written request, MCCC will require a deposit of 100 percent of the estimated processing fee before it begins to search for the public record for any subsequent written request when all of the following conditions exist:
 - The final fee for the prior written request is not more than 105 percent of the estimated fee;
 - The public records made available contained the information sought in the prior written request and remain in Monroe County Community College's possession;
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by MCCC to provide the records;
 - Ninety days have passed since MCCC 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 MCCC; and
 - MCCC has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- MCCC will not require the 100 percent 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 Monroe County Community College;
- Monroe County Community College is subsequently paid in full for all applicable prior written requests; or
- Three hundred sixty-five days have passed since the person made the request for which full payment was not remitted to MCCC.

How does Monroe County Community College calculate FOIA processing fees?

The Michigan FOIA statute permits MCCC to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet.
- Labor costs associated with searching for, locating and examining a requested public record when failure to charge a fee will result in unreasonably high costs to MCCC.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to MCCC.
- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on MCCC website if you ask for MCCC to make copies.
- The cost of digital or similar media drives or transfer fees when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on MCCC's website if you ask for MCCC to make copies.
- 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. If the time involved is less than 15 minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid college employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. College may add up to 50 percent 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 unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost. Contracted labor

costs will be charged at the hourly rate of \$48.90 (6 times the state minimum hourly wage).

- Contracted labor costs will be charged at the hourly rate of six times the state minimum hourly wage.

A labor cost will not be charged for the search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to MCCC. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to MCCC's usual FOIA requests because of the nature of the request in the particular instance. MCCC must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

Monroe County Community College must use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such digital or similar media drives will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if MCCC has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Paper Copies

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper.
- Copies for non-standard sized sheets will paper will reflect the actual cost of reproduction.

Mailing Costs

- MCCC will use a reasonably economical and justified means to mail the public records.
- MCCC may charge for the least expensive form of postal delivery confirmation.
- MCCC will not charge for expedited shipping or insurance unless specifically stipulated by the requestor.

Waiver of Fees

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefitting the general public. The MCCC Board of Trustees may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

How do I qualify for an indigence discount on the fee?

MCCC will discount the first \$20 of fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific 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 discount if you:

- Have previously received discounted copies of public records from Monroe County Community 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.

May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is formally designated by the state to carry out activities under subtitle C of the federal 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, may receive a \$20 discount if the request meets all of the following requirements in the Act:

- Is made directly on behalf of the organization or its clients.
- Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.
- Is accompanied by documentation of its designation by the state, if requested by the public body.

How may I challenge the denial of a public record or an excessive fee?

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 appeal by filing a written appeal of the denial with the president of MCCC.

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 10 business days of receiving the appeal, the president will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- Reverse the disclosure denial in part and uphold the disclosure denial in part.

Whether or not you submitted an appeal of a denial to the president of MCCC, you may file a civil action in Monroe County Circuit Court within 180 days after MCCC's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that Monroe County Community 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.

Appeal of an Excess FOIA Processing Fee

If you believe that the fee charged by MCCC to process your FOIA request exceeds the amount permitted by state law, you must first appeal to the president of MCCC by filing a written appeal for a fee reduction to the Office of the President of Monroe County Community College.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. Within 10 business days after receiving the appeal, the president 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 issuing 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 10 business days the response period, during which MCCC's Board will respond to the written appeal.

Within 45 days after receiving notice of MCCC's determination of the processing fee appeal, you may commence a civil action in Monroe County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50 percent or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that Monroe County Community College acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.

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