

FREEDOM OF INFORMATION ACT POLICY

Summary

Section 1 of the Michigan Freedom of Information Act (“FOIA” or “the statute”) 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.”(M.C.L.A. 15.231.) To that end, all people, excluding prisoners, are allowed to file FOIA requests with Mott Community College. (the “College”). A requester must simply file a request in writing with the College’s AVP of Human Resources (FOIA Coordinator) and the College will begin processing his or her request. Verbal requests will require contact information for follow up as the FOIA Coordinator or designee will summarize the verbal request for accuracy in writing to the requester for content confirmation.

The College, in its initial response, will do one of the following within the timeframe permitted by the statute: grant the request, partially grant the request, deny the request, inform the requester that additional time is needed, require a fee deposit prior to further processing, or inform the requester that the requested record has not been sufficiently described.

If a request is denied or partially denied, the College will explain why the documents have not been released and inform the requester of his or her challenge and appeal options.

A fee deposit will be required when processing a request that will require significant College employee time and resources. The College will notify the requester of the estimated cost and provide a non-binding, best efforts estimate of the time it will take to complete the processing of the request, the College will determine that the cost of processing the request is significantly less or greater than the estimated cost. If that is the case, the College will notify the requester to allow the requester to determine whether and how he or she wants to proceed with the request.

After the College receives a required deposit, it will make every effort to provide the requested documents within the time estimate provided. Requesters must understand, however, that at any given time, the College is processing multiple requests and cannot devote all of its time to one particular request.

If a requester feels that he or she was wrongly denied responsive documents, he or she may appeal to the Head of the Public Body, which for the purposes of these Procedures and Guidelines is the President of the College, or file a civil action. If a requester believes that the College has required a fee that exceeds the amount permitted under the Procedures and Guidelines, he or she may file a civil action. Requesters are also always free to contact Human Resources at 810-762-0565 with any questions about the processing of their requests. Detailed Procedures and Guidelines follow.

Procedures and Guidelines

1. How to submit a FOIA request to the College

- A. A FOIA request may be submitted in writing to Philip Espinosa, AVP of HR (FOIA Coordinator), in the Office of Human Resources. The request may be transmitted in hard copy, by email, by facsimile or verbally.
- B. The address is Mott Community College, Human Resources, CM 1024, 1401 East Court Street, Flint, MI 48503. The email address is FOIA@mcc.edu. The fax number is 810-762-0595.
- C. A request should sufficiently describe the record(s) sought to enable the College to find the record(s) and should provide the requester's contact information.
- D. Please include "FOIA" or "FOIA Request" on written requests for information.
- E. Requests received electronically are deemed received the next business day. A business day is defined as Monday through Friday, exclusive of holidays and institutional closure days.
- F. If a request is delivered to the FOIA Coordinator's junk mail folder, the request will be deemed received one business day after the FOIA Coordinator becomes aware of the request. The FOIA Coordinator and designee will check the junk mail folder on a regular basis.
- G. Verbal requests made via telephone or in person to the FOIA Coordinator will require contact information for follow up. The FOIA Coordinator or designee will summarize the verbal request for accuracy in writing to the requester for content confirmation.

2. Responses to FOIA requests to the College

- A. The College will respond to a FOIA request within five (5) business days of the College receiving the request.
- B. A response will consist of one or more of the following:
 - I. A granting of the request
 - II. A partial granting of the request, and a partial denial because some or a portion of the records do not exist, are not in the possession of the College and/or are exempt from disclosure.
 - III. A complete denial of the request because all of the records do not exist, are not in the possession of the University, and/or are exempt from disclosure.
 - IV. A notice that more time is needed to process the request

- a. If more time is needed, the College will send out a follow up response within 10 business days of the initial response.
 - V. A notice that a fee deposit is required prior to further processing
 - a. If a fee deposit is required, the College will include in its response a non-binding, best efforts estimate regarding the time it will take to provide the records to the requester.
 - VI. A notice that the record(s) sought has (have) not been sufficiently described to enable the College to locate the record(s).
- C. The response will state the FOIA exemptions under which any information and/or documents are withheld, if applicable.
- D. If any part of a request for records is denied for any reason, the response will set forth the procedures for appealing the denial.

3. Deposit Requirements

- A. A fee deposit will be required when the processing of a request will result in fees equal to or greater than \$50.00.
- B. 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.
- C. If the College requires a deposit, it will not process the FOIA request further until the deposit is paid.
- D. If, after receipt of the deposit and further processing of the request, the College learns that the processing costs will be significantly different from the estimated costs, the College will so notify the requester. Where the actual effort to search for, review and separate exempt material significantly exceeds the original estimate, the College will notify the requester. The requester may choose to receive a revised fee deposit notice, or limit his/her original request to those records, which may be processed within the time stated in the original fee estimate.
- E. A person who makes a FOIA request for which a deposit is required may withdraw that FOIA request without charge instead of paying the required deposit. Failure to pay the deposit will be deemed as a withdrawal of the FOIA request.
- F. The College will treat multiple concurrent FOIA requests on the same topic(s) and/or regarding the same recordkeeper(s) from the same person as one FOIA request for purposes of determining whether the fee is below \$50.00.

- G. Where a requester who has not paid the final fee for the processing of an earlier request files a new FOIA request, the College may require a deposit of all (100%) of the estimated fees for processing the subsequent request prior to processing the subsequent request.

4. Calculation and Payment of Fees

- A. Fees are calculated by adding together the following costs, as applicable:
 - I. The labor costs for searching for, locating, and examining responsive records
 - II. The labor costs for review, separation, and deletion of exempt information from non-exempt information
 - III. The cost of non-paper physical media, if used
 - IV. The cost per copy of paper copies, not to exceed \$0.10/page for standard 8 ½ x 11 inch paper
 - V. The labor costs directly associated with duplication or publication, which may include copying to non-paper media
 - VI. The cost of mailing
- B. A detailed FOIA fee itemization form will be provided by the College with the response. The College requires payment in full of all fees incurred in processing a FOIA request before delivering the final, responsive documents. The amount invoiced must be paid within ninety (90) days.
- C. The College's decision to deny access to public records sought by a FOIA request because those records are, in whole or in part, exempt from disclosure does not excuse the person who files that FOIA request from payment of fees for the work undertaken by the College in response to that request.
- D. The College may waive or reduce the fees it is authorized to charge if it determines that a waiver or reduction of the fee is in the public interest because responding to the FOIA request can be considered as primarily benefiting the general public.
- E. Fee reductions or waivers are required in certain instances involving proven indigence or non-profit organizations. The College will apply these reductions or waivers in accordance with the statute.

5. Procedures for Challenge and Appeal

- A. If the College denies a request in whole or in part, the requester may:
 - I. Submit an appeal to the Head of the Public Body, which for the purpose of these Procedures and Guidelines is the President, in writing, via the FOIA Coordinator, using the contact information listed in Item 1, above. The appeal must specifically use the word "appeal" and identify the reason(s)

the requester seeks reversal of the denial. The Head of the Public Body must respond to the appeal within ten (10) business days by doing one of the following:

- a. Reversing the FOIA Coordinator's decision
- b. Upholding the FOIA Coordinator's decision
- c. Reversing in part and upholding in part the FOIA Coordinator's decision
- d. Issuing a notice of extension for not more than ten (10) additional business days.

II. Commence a civil action in the Court of Claims within one hundred eighty (180) days after the College's final determination to deny a request.

- B. If a requester believes that the College 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.
- C. If a requester has questions regarding any FOIA response, including estimated fees or actual fees assessed, the requester should not hesitate to contact Philip Espinosa at FOIA@mcc.edu or telephone at 810-762-0565.