Michigan Freedom of Information Act (FOIA)
Processing Summary

The Michigan Freedom of Information Act ("FOIA" or "the statute"), MCL 15.231 *et seq.*, 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."[1] To that end, all people, excluding prisoners, are allowed to file FOIA requests with Michigan Technological University. A requester must simply file a request in writing with the University's FOIA Office (or Coordinator), and the University will begin processing the request.[2]

The University, in its initial response, will do one of the following within the time frame 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 or that the request is missing statutorily-required information. If a request is denied or partially denied, the University will explain why the records have been exempted or not released and inform the requester of their challenge and appeal options.

A fee deposit will be required when processing a request will require significant University employee time and resources. The University 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. It is possible that after further processing of the request, the University will determine that the cost of processing the request is significantly greater or less than the estimated amount. If that is the

[1] MCL 15.231(2).
[2] If a verbal request for information is received by a Michigan Technological University employee who knows that the information is available on the University's website, the employee, where practicable, will inform the requester about the University's website address.

case, the University will notify the requester to allow the requester to determine whether and how they want to proceed with the request.

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

If a requester feels that they were wrongly denied responsive records, the requester may appeal to the head of Michigan Technological University, in writing, or file civil action. If a requester believes that the University has required a fee that exceeds the amount permitted under the Procedures and Guidelines, the requester may file a civil action. Requesters are also always free to contact the FOIA Office or the FOIA Coordinator with any questions about the processing of their requests.

Further detailed “FOIA Procedures and Guidelines” for the University follow.

Michigan Technological University
FOIA Procedures and Guidelines

1. How to Submit a FOIA Request to the University

a. A FOIA request must be submitted in writing to the FOIA Office. The request may be transmitted in hard copy, by email, or by facsimile.
b. The University's FOIA Coordinator is Sarah H. Schulte, General Counsel. The University's FOIA Office address is General Counsel, Michigan Technological University, Administration Building 508, 1400 Townsend Drive, Houghton, MI 49931. The email address is shschult@mtu.edu. The telephone number is 906-487-2318. The fax number is 906-487-2935.
c. Per the FOIA, a request must describe the record(s) sought sufficiently to enable the University to find the record(s) and include the requester's complete name, postal address, and contact information. If the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual should be included.
d. Requests should state that they are submitted pursuant to the Michigan Freedom of Information Act or FOIA.
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 email folder, the request will be deemed received one (1) business day after the FOIA Coordinator becomes aware of the request. The FOIA Coordinator will check the junk mail folder at least once per week.

2. University Responses to FOIA Requests

a. The University will respond to a FOIA request within five (5) business days of the FOIA Office 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 University, 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.
    1. If more time is needed, the University 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.
    1. If a fee deposit is required, the University 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 University to locate the record(s).
vii. A notice that the statutorily required information to make a FOIA request, including the requester's complete name, postal address, and contact information, has not been included, and the requester may submit a new request with said information.

c. The University's 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 challenging and/or appealing that 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.[3]
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 University requires a deposit, it will not process the request further until the deposit is paid.
d. A requester who makes a FOIA request for which a deposit is required may withdraw that request without charge instead of paying the required deposit.

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[3] The University has determined, consistent with the FOIA, that failure to charge fees in situations where the fees would be equal to or greater than $50.00 would result in unreasonably high costs to the University.

e. If the University does not receive the deposit by the FOIA's statutorily determined date (48 days after the deposit notice is sent, with the notice legally deemed received three (3) days after it is sent), the request will be considered abandoned.
f. If, after receipt of the deposit and further processing of the request, the University learns that the processing costs will be significantly different from the estimated costs, the University will notify the requester. Where the actual effort to search for, locate, review, separate, and redact or delete exempt material significantly exceeds the original estimate, the University will notify the requester. The requester may choose to receive a revised fee deposit notice or limit their original request to those records which may be processed within the time stated in the original fee estimate.
g. The University will treat multiple concurrent FOIA requests on the same topic(s) and/or regarding the same recordkeeper(s) and from the same requester as one (1) FOIA request for purposes of determining whether the fee is below $50.00.
h. Where a requester who has not paid the final fee for the processing of an earlier request files a new FOIA request, the University 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[4]:
    i. The labor costs[5] for searching for and locating responsive records.
    ii. The labor costs[5] for review, separation, and redaction or 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, if used.

[4] A copy of the standard form the University uses for fee itemization, with additional explanatory information, is publicly available on the University's FOIA website: https://www.mtu.edu/foia/.

[5] Labor costs will be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down. The labor is charged at the hourly rate of the lowest paid University employee capable of doing the work, plus fringe benefits, if applicable. If it is not possible for the work to be done by a University employee, the University will contract the work out and charge per the provisions of the statute.

v. The labor costs[5] directly associated with duplication or publication, which may include copying to non-paper media, if needed.
vi. The cost of mailing, if needed.

b. When the University completes the response to the FOIA request, the final fees will be itemized and the balance due will be requested. An invoice will be provided by the University. The amount invoiced must be paid within thirty (30) days. The University will deliver the responsive nonexempt records upon receipt of the balance due.
c. The University reserves the right to require payment in full of all fees incurred in processing a FOIA request before delivering the final, responsive documents. The University'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 University in response to that request.
d. The University 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, such as involving proven indigence. The University will apply reductions or waivers in accordance with the statute.

5. Procedures for Challenge and Appeal

a. If the University denies a request in whole or in part, the requester may:
    i. Submit an appeal to the head of the University, in writing, via its FOIA Coordinator, using the contact information listed in section 1(b), 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 University must respond to the appeal within ten (10) business days by doing one of the following:
        1. Reversing the FOIA Coordinator's decision;
        2. Upholding the FOIA Coordinator's decision;
        3. Reversing in part and upholding in part the FOIA Coordinator's decision; or
        4. Issuing a notice of extension for not more than ten (10) additional business days, to be followed by a further

response within the allowable ten (10) additional business days.

ii. Commence a civil action in the Court of Claims within 180 days after the University's final determination to deny any portion of a request.

b. If a requester believes that the University has required payment of a fee that exceeds the amount permitted under these Procedures and Guidelines, the requester may commence an action in the Court of Claims for a fee reduction within 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 the University's FOIA Coordinator, Sarah H. Schulte, by email at shschult@mtu.edu, by phone at 906-487-2318, or by mail at General Counsel, Michigan Technological University, Administration Building 508, 1400 Townsend Drive, Houghton, MI 49931.