

 Sanilac County Health Department	Division: All		Category: Client Rights
	Subject: FOIA – Procedure		Number:
	Author: Bryant Wilke, Health Officer		Page 1 of 14
	BOH Approval Date: 6/23/2015	Effective Date: 09/2006	Revision Date: 07/01/2015

FREEDOM OF INFORMATION ACT (FOIA) REQUEST POLICY

- A. **PURPOSE:** The purpose of this policy is to assure compliance with the Freedom of Information Act (Act) by the Sanilac County Health Department (“Health Department”).
- B. **DESIGNATION OF FOIA COORDINATOR:** The Health Officer (or his/her designee) shall serve as the FOIA Coordinator and shall be responsible for administering this policy.
- C. **DEFINITIONS:** The words and phrases contained in this policy shall have the meaning given to them, if any, by the Act.
- D. **RECEIVING AND RESPONDING TO FOIA REQUESTS:**
1. The FOIA Coordinator shall be responsible for accepting and processing requests for records covered under the Act (see Attachment A), and shall be responsible for approving a denial in accordance with the Act.
 2. All FOIA requests must be submitted in writing. This includes requests received by facsimile, electronic mail or through other electronic means. Requests received by facsimile, electronic mail, or other electronic transmission are not considered received until one (1) business day after the electronic transmission is made.
 - i. An electronic mail request that is transmitted to a spam or junk mail folder is not considered received until one (1) business day after the Health Department becomes aware of the request.
 - ii. The FOIA Coordinator (or designee) shall check his or her spam or junk mail folder on a weekly basis for FOIA requests and shall keep a log of when such requests are first delivered and received.
 3. A request must describe the public record sufficiently to enable the Health Department to find the public record.
 4. Within five (5) business days after receiving a request for public records the FOIA Coordinator (or designee) will:
 - i. Grant the request. (See Attachment B)
 - ii. Grant the request in part and deny the request in part. (See Attachment C)
 - iii. Deny the request. (See Attachment D)
 - iv. Request an extension of ten (10) business days for additional response time. (See Attachment E)
 - v. Request a deposit in accordance with Section F. (See Attachment F)
 5. Failure to respond to a request constitutes a denial if:
 - i. The failure to respond was willful and intentional; or
 - ii. The request included language that would allow it to be identified as a request for public records or a FOIA request.

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6. If any of the requested documents are on the Health Department’s website, the requestor shall be informed and no fee shall apply to the request unless the requestor subsequently requests copies of those public records.
7. A specific request can be properly denied only if it falls within one of the enumerated exemptions listed in the Act.
8. Notice to deny a request in whole, or in part, shall contain an explanation for the grounds under FOIA (or other law) for the determination that the public record or portion of the public record is exempt from disclosure.
9. If an exemption is used to deny a request, the specific statutory citation for and verbiage of the exemption will be included in the denial. All denials must be signed by the FOIA Coordinator (or designee). All denials will also include a description of the denied record, an explanation of the requestor's right to appeal, and/or a certificate verifying that the requested record does not exist under the name given by the requestor or by another name reasonably known to the Health Department.
10. The FOIA Coordinator (or designee) will keep on file a time stamped copy of all requests and responses for a period of one (1) year following their receipt or issuance.

E. FEES:

1. In accordance with the FOIA, the Health Department will charge fees for:
 - i. The actual labor costs for searching for, locating, and examining records;
 - a. This is the cost of labor directly associated with the necessary searching for, locating, and examining a public record in conjunction with receiving and fulfilling a granted written request;
 - ii. The actual labor costs for redacting records;
 - a. The Health Department will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession;
 - iii. Non-paper physical media;
 - iv. Paper copies;
 - a. Copying costs may be charged if a copy of a public record is requested or for the necessary copying of a record for inspection (for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection);
 - v. The actual labor costs for duplication or publication of records;
 - a. This is the cost of labor directly associated with duplication or publication, including making paper or digital copies or transferring digital records on non-paper physical media, through the Internet, or other electronic means as stipulated by the requestor;

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vi. Mailing;

- a. The Health Department will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner;
- b. The Health Department cannot charge more for expedited shipping, insurance, or other special delivery accommodations unless specifically requested by the requestor.

The attached Cost Worksheet shall be utilized to determine the fee charged by the Health Department (See Attachment G)

2. Actual labor costs will be charged in 15-minute increments, rounded down. In calculating the cost of labor incurred in searching for, locating, and examining records, redacting records, and duplication or publication, the Health Department may not charge more than the hourly wage of the lowest paid employee capable of retrieving the information necessary to comply with the request. The Health Department may also add up to 50% to the multiplier used to account for benefits. Subject to the 50% limitation, the Health Department shall not charge more than the actual cost of fringe benefits.
3. If no employee is capable of redacting the records, the Health Department may forward such records to legal counsel for redaction. Charges for such contracted labor may not exceed six (6) times the State minimum wage and must be itemized on the calculation worksheet.
4. A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from non-exempt information when such labor takes no more than fifteen (15) minutes to complete. If such labor requires more than 15 minutes to complete, such a fee will be charged because failure to do so would result in unreasonably high costs to the Health Department that are excessive and beyond the normal or usual amount for those services compared to its usual FOIA requests.
5. The first \$20.00 of the fee shall be waived for each request of an individual who is entitled to information under the Act and who submits an "Affidavit of Indigency" stating they are indigent and receiving public assistance or, if not receiving public assistance, stating facts showing their inability to pay the full fee.
 - i. An indigent individual may only receive two (2) such fee waivers per calendar year.
6. The first \$20.00 of the fee shall be waived for each request of a nonprofit organization that 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 and Advocacy for Individuals with Mental Illness Act.
7. If the Health Department fails to timely respond to a request, it must reduce its labor costs by 5% per day a response is late up to a maximum 50% reduction if:
 - i. The late response was willful and intentional; or
 - ii. The request included language that would allow it to be identified as a request for public records or a FOIA request.

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8. The Health Officer shall provide for the calculation of a fee for reproducing documents. This calculation will include paper, copy machine, and supplies cost. The Health Officer shall also determine the fee to be charged for envelopes. These fees shall be calculated periodically and be communicated to all employees.

9. A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the Health Department 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.

This section does not apply to public records prepared by the Health Department under a separate law authorizing the sale of those public records to the public.

F. DEPOSITS: The Health Department may charge a deposit if:

1. The anticipated cost of granting the request is expected to exceed \$50.00.
 - i. In such cases, a notice to provide a good faith deposit of 50% of the cost prior to granting the request will be sent. (See Attachment F)
 - ii. The request for a good faith deposit must also include a “best efforts estimate” as to the amount of time it will take the Health Department to fulfill the request upon receipt of the deposit.
2. The Health Department may require a 100% deposit from an individual who has not paid a previous FOIA fee in full. Such a deposit may only be required if:
 - i. The final fee for the prior written request was not more than 105% of the estimate fee.
 - ii. The public records made available contained the information being sought in the prior written request and are still in the Health Department’s possession.
 - iii. The public records were made available to the individual, subject to payment, within the time frame provided by law.
 - iv. No fewer than 90 days but no more than 365 days have passed since the Health Department notified the individual in writing the records were available for pick up or mailing.
 - v. The individual is unable to show proof of prior payment to the Health Department.
 - vi. The Health Department calculates a detailed itemization that is the basis for the current written request’s increased estimate fee deposit.
3. The Health Department can no longer require an increased estimated fee deposit (i.e. 100% deposit) from an individual if any of the following apply:
 - i. The individual is able to show proof of prior payment in full to the Health Department;
 - ii. The Health Department is subsequently paid in full for the applicable prior written request; or
 - iii. 365 days have passed since the individual made the written request for which full payment was not remitted to the Health Department.

G. APPEAL: Any department that receives notification of the appeal of a full or partial denial of a FOIA request, or fee associated with preparing the response to same, shall immediately forward said appeal to

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the Health Board. The Health Board shall respond to such appeals within ten (10) business days from their receipt of same. The Health Board is not considered to have received an appeal until the first regularly scheduled meeting following submission of the appeal.

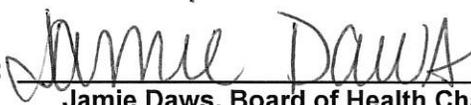
1. The Health Board may deliberate and take one of the following actions in response to the filing of an appeal:
 - i. Reverse the disclosure denial.
 - ii. Affirm the disclosure denial or fee charged.
 - iii. Reverse the disclosure denial in part and affirm the disclosure denial in part.
 - iv. Modify the fee charged.
 - v. Under unusual circumstances, issue a notice extending for not more than 10 business days the period for issuing a response. The Health Board can only issue one 10-day extension.
2. If the Health Board fails to respond to a written appeal or upholds all or a portion of the disclosure denial/fee charged that is the subject of the appeal, the requestor may seek judicial review of the decision by commencing an action in the Sanilac County Circuit Court.

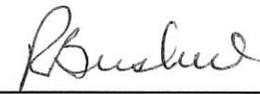
- H. **PUBLIC SUMMARY:** The Health Department shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit a FOIA request to the Health Department and explaining how to understand its responses, deposit requirements, fee calculations, and avenues for challenge and appeal. (Attachment H)
- I. **PUBLICATION:** The Health Department shall post and maintain this policy, as well as the public summary, on its website, as well as provide free copies of same upon request by visitors at the Health Department. Either a copy of both this policy and the public summary or the website link to such documents shall be provided with any response to a FOIA request.
- J. **ATTACHMENTS:** The attachments to this policy may be revised, in a manner consistent with this policy, by the Health Officer as needed due to changes in the law.
- K. **EFFECTIVE DATE:** This policy shall become effective on July 1, 2015.

**SANILAC COUNTY DEPARTMENT OF PUBLIC HEALTH
Policy Review Coversheet**

Division	All		
Subject	FOIA – Procedure		
Originator	Bryant Wilke, Health Officer	Effective Date	7/1/2015

Reviewed:  Date: 6/23/2015
Bryant Wilke, M.P.H., R.S., Health Officer

Reviewed:  Date: 6/23/15
Jamie Daws, Board of Health Chairperson

Reviewed:  Date: 6-23-15
Russell L. Bush, M.D., M.P.H.

When all signatures are present, coversheet and attached policy draft, with any recommended edits and comments written in, are to be forwarded to the Health Officer for review.

ATTACHMENT A
SANILAC COUNTY HEALTH DEPARTMENT
FREEDOM OF INFORMATION ACT REQUEST FORM

(To be completed by the requestor)

Date: _____

FOIA Coordinator/Health Officer
Sanilac County Health Department
171 Dawson Street, Suite 123
Sandusky, Michigan 48471

Phone: (810) 648-4098

Fax: (810) 648-2646

Dear Health Officer:

In accordance with the Freedom of Information Act (MCL 15.231 et seq, Public Act 553 of 1997), as amended, and the Sanilac County Health Department Freedom of Information Act Request Policy, I am asking for the following information:

I understand the Act allows a public body to charge a fee and that I will be notified of same.

(Please print clearly)

Name: _____ Email: _____

Address: _____

Phone: _____ Fax: _____

Respectfully,

Requestor's signature

ATTACHMENT B

(Sample response granting request)

Date: _____

Requestor
Address

Dear _____:

Pursuant to your Freedom of Information Act request dated _____, received by the Sanilac County Health Department on _____, your request for _____ has been granted. The total cost associated with responding to your request is _____. A detailed itemization is attached.

Please remit a check payable to the Sanilac County Health Department and mail it to my attention.

If you should have any questions, please feel free to contact me. You may also find a copy of Health Department's FOIA policy and public summary on its website at <http://www.sanilachealth.com/>.

Respectfully,

Health Officer

ATTACHMENT C

(Sample letter granting, in part, and denying, in part)

Date: _____

Requestor
Address

Dear _____:

Pursuant to your Freedom of Information Act request dated _____, received by the Sanilac County Health Department on _____, your request for _____ has been granted in part. . The total cost associated with responding to your request is _____. A detailed itemization is attached.

Please remit a check payable to the Sanilac County Health Department and mail it to my attention.

However, a decision has been made to deny a certain portion of your request because such information (check appropriate line) _____ does not exist / _____ is exempt from disclosure pursuant to _____, which states:

In accordance with the Freedom of Information Act, after notification of a denial of a FOIA request, you have the right to undertake either of the following actions to appeal the decision:

1. Submit to the Health Board a written appeal that specifically states the word "appeal" and identifies the reasons reversal of the disclosure denial is appropriate.
2. Seek judicial review in the Sanilac County Circuit Court.

You also have the right to receive attorney fees and damages as provided in the Act if, after judicial review, the Circuit Court determines that the Health Department has not complied with the Act and orders disclosure of all or portions of the public record.

You may find a copy of Health Department’s FOIA policy and public summary on its website at <http://www.sanilachealth.com/>.

Respectfully,

Health Officer

ATTACHMENT D

(Sample letter denying entire request)

Date: _____

Requestor

Address

Dear _____:

After review of your Freedom of Information Act request dated _____, received by the Sanilac County Health Department on _____, a decision has been made to deny your request because such information (check appropriate line) ___ does not exist / _____ is exempt from disclosure pursuant to _____, which states:

In accordance with the Freedom of Information Act, after notification of a denial of a FOIA request, you have the right to undertake either of the following actions to appeal the decision:

1. Submit to the Health Board a written appeal that specifically states the word "appeal" and identifies the reasons reversal of the disclosure denial is appropriate.
2. Seek judicial review in the Sanilac County Circuit Court.

You also have the right to receive attorney fees and damages as provided in the Act if, after judicial review, the Circuit Court determines that the Health Department has not complied with the Act and orders disclosure of all or portions of the public record.

You may find a copy of Health Department's FOIA policy and public summary on its website at <http://www.sanilachealth.com/>.

Respectfully,

Health Officer

ATTACHMENT E

(Sample letter for ten (10) business day extension)

Date: _____

Requestor

Address

Dear _____:

This letter is in response to your Freedom of Information Act Request dated _____, and received by the Sanilac County Health Department on _____.

Pursuant to the Freedom of Information Act “a public body shall respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following . . . issuing a notice extending for not more than 10 business days the period during which the public body shall respond to the request.” MCL 15.235(2)(d).

Please be advised that due to the nature of your request and the need to search, collect, appropriately examine, and review a voluminous amount of separate and distinct public records pursuant to your request, the Health Department will be extending the response to your FOIA request for ten (10) business days beyond the date of this letter or _____. At that time, the Health Department will:

1. Grant your request;
2. Issue a written notice denying your request;
3. Grant your request in part and issue a written notice denying your request in part; or
4. Request a deposit in accordance with its FOIA policy.

You may find a copy of Health Department’s FOIA policy and public summary on its website at <http://www.sanilachealth.com/>.

Respectfully,

Health Officer

ATTACHMENT F

(Sample letter for good faith deposit)

Date: _____

Requestor

Address

Dear _____:

This letter is in response to your Freedom of Information Act Request dated _____ and received by the Sanilac County Health Department on _____.

The estimated costs of locating and copying the requested records are _____. An estimated, detailed itemization is attached.

In accordance with the Freedom of Information Act, I am requesting a good faith deposit in the amount of one-half of the cost for providing the information you are requesting in order for the Health Department to process your request. The check should be made payable to the Sanilac County Health Department and mailed to my attention.

Upon receipt of the deposit, the Health Department will use its best efforts to fulfill your request by _____.

You may find a copy of Health Department's FOIA policy and public summary on its website at <http://www.sanilachealth.com/>.

Respectfully,

Health Officer

ATTACHMENT G
Freedom of Information Act Request Cost Worksheet

Pursuant to the Michigan Freedom of Information Act, the following costs will be charged for responses to FOIA requests.			
Paper Copies (Cost Per Copy): <p align="center"> Letter (single-sided): <u>.03</u> cents per page Letter (double-sided): <u>.06</u> cents per page Legal (single-sided): <u>.04</u> cents per page Legal (double-sided): <u>.08</u> cents per page Other: _____ Colored copies _____ Cost per page: <u>.10</u> </p>		Number of Pages: x _____ = x _____ = x _____ = x _____ = x _____ =	Total Cost \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
Non-Paper Physical Media: Other Media (tape/disk/drive): _____ Cost: _____		Number: x _____ =	Total Cost \$ _____
Labor Cost for Searching For, Locating, and Examining Records (15 minute increments rounded down) Hourly Rate Charged: <u>\$17.35</u>		Minutes Spent: x _____ =	Total Cost \$ _____
Labor Cost for Searching For Redacting Records (15 minute increments rounded down) Hourly Rate Charged: _____ Name of firm/individual if contracted labor used: _____		Minutes Spent: x _____ =	Total Cost \$ _____
Labor Cost for Duplication/Publication of Records (15 minute increments rounded down) Hourly Rate Charged: <u>\$17.35</u>		Minutes Spent: x _____ =	Total Cost \$ _____
Mailing: <p align="center"> No. 10 Business Envelope: <u>.10</u> cents 9 x 12 Envelope: <u>.20</u> cents 10 x 13 Envelope: <u>.25</u> cents Other: _____ cents Postage (select method): \$ _____ per stamp \$ _____ per pound \$ _____ per package </p>		Number of Envelopes: x _____ = x _____ = x _____ = x _____ = Actual Postage: x _____ = x _____ = x _____ =	Total Cost \$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
		Subtotal	\$ _____
Indigent or Designated Non-Profit Credit		Subtract up to \$20.00	\$ _____
		Estimated Cost	\$ _____
Note: Estimated Cost exceeds \$50.00 Good Faith Deposit of 50% required <u>before</u> request will be processed		Date Paid: _____	Deposit: \$ _____
		Date Paid: _____	Balance: \$ _____

If you believe the fee charged is excessive, you have the right to undertake either of the following actions to appeal it: 1) submit to the Health Board a written appeal that specifically states the word "appeal" and identifies the reasons the fee is excessive; or 2) seek judicial review in the Sanilac County Circuit Court. You may also have the right to receive attorney fees and damages as provided in the Freedom of Information Act if, after judicial review, the Circuit Court determines that the public body has acted arbitrarily and capriciously.

ATTACHMENT H

PUBLIC SUMMARY

This is only a summary of the Sanilac County Health Department's FOIA Request Policy. For more details and information, a copy of the full FOIA Request Policy is available at no charge at the Health Department and on its website at <http://www.sanilachealth.com/>.

Right to Request Public Records

All Freedom of Information Act requests must be submitted in writing to the FOIA Coordinator/Health Officer. This includes requests received by facsimile, electronic mail or through other electronic means. Requests received by facsimile, electronic mail, or other electronic transmission are not considered received until one (1) business day after the electronic transmission is made.

Health Department's Duty to Respond

Within five (5) business days after receiving a request for public records the FOIA Coordinator will:

- Grant the request and provide records requested;
- Grant the request in part and deny the request in part;
- Deny the request because the records do not exist or are not subject to disclosure;
- Request an extension of ten (10) business days for additional response time;
- Issue a written notice indicating that the requested public record is available at no charge on the Health Department's website; or
- Request a deposit.

Fees

In accordance with the FOIA, the Health Department will charge fees for:

- The actual labor costs for searching for, locating, and examining records;
- The actual labor costs for redacting records;
- Non-paper physical media;
- Paper copies;
- The actual labor costs for duplication or publication of records; and
- Mailing.

The Health Department may charge a deposit if the anticipated cost of granting the request is expected to exceed \$50.00. In such cases, a notice to provide a good faith deposit of 50% of the cost prior to granting the request will be sent. Under limited circumstances, the Health Department may charge a 100% deposit from an individual who has not paid a previous FOIA fee in full.

Indigent individuals and certain non-profit organizations may receive a \$20.00 discount or credit for fees.

Right to Appeal

An individual has the right to undertake either of the following actions to appeal a denial of a request or fee charged in association with a request:

1. Submit to the Health Board a written appeal that specifically states the word "appeal" and identifies the reasons reversal of the disclosure denial or fee charged is appropriate.
2. Seek judicial review in the Sanilac County Circuit Court.

The Health Board is not considered to have received an appeal until the first regularly scheduled meeting following submission of the appeal.