

Appendix 200-100-108-B
Freedom of Information Act
Fees & Detailed Cost Itemization Information
Effective: February 11, 2016

The following costs are being charged in compliance with Section 4 of the Michigan Freedom of Information act, MCL15.234, and according to NIESA's Freedom of Information, Standard Operating Guideline, #100-200-108.

Section 1: Fee Deposits

1. If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.
2. If a request for public records is from a person who has not paid NIESA in full for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:
 - a. The final fee for the prior written request is not more than 105% of the estimated fee;
 - b. The public records made available contained the information sought in the prior written request and remain in NIESA's possession;
 - c. The public records were made available to the individual, subject to payment, within the time frame estimated by NIESA to provide the records;
 - d. Ninety (90) days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
 - e. The individual is unable to show proof of prior payment to NIESA; and
 - f. The FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.
3. The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:
 - a. The person making the request is able to show proof of prior payment in full to NIESA;
 - b. NIESA is subsequently paid in full for the applicable prior written request; or
 - c. three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to NIESA.

Section 2: Calculation of Fees:

1. A fee may be charged for the labor cost of copying and duplication.
2. A fee will *not* be charged for the labor cost of search, examination, review and the deletion and separation of exempt from nonexempt information *unless* failure to charge a fee would result in unreasonable high costs to NIESA because of the nature of the request in the particular instance, and NIESA specifically identified the nature of the unreasonably high costs.
3. Cost for the search, examination review, and deletion and separation of exempt from non-exempt information are "unreasonably high" when they are excess and beyond the normal or usual amount for those services (Attorney General Opinion 7083 of 2001) compared to the costs of NIESA's usual FOIA requests, not compared to NIESA's operating budget. (*Bloch v Davison Community Schools*, Michigan Court of Appeals, Unpublished, April 26, 2011).
4. The following factors shall be used to determine an unreasonably high cost to NIESA:
 - a. Volume of the public record requested.
 - b. Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
 - c. Whether the public records are from more than one NIESA department.
 - d. The available staffing to respond to the request.
 - e. Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

5. The Michigan FOIA statute permits NIESA to charge for the following costs associated with processing a request:
 - a. 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.
 - b. Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high cost to NIESA.
 - c. 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 cost to NIESA.
 - d. The cost of copying or duplication, not including labor, or paper copies of public records. This may include the cost for copies of records already on NIESA's website if you ask for NIESA to make copies.
 - e. The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on NIESA's website if you ask for NIESA to make copies.
 - f. The cost to mail or send a public record to a requestor.
6. Labor costs will be calculated based on the following requirements:
 - a. 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.
 - b. Labor costs will be charged at the hourly wage of the lowest-paid NIESA employee capable of doing the work if the specific fee category, regardless of who actually performs work.
 - c. Labor cost will also include a charge to cover or partially cover the cost of fringe benefits.
 - d. NIESA 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 the fringe benefits.
 - e. 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 benefits cost.
 - f. Contracted labor costs will be charged at the hourly rate of \$48.90 (6 times the State minimum hourly wage).
7. The cost to provide records on non-paper physical media when so requested will be based on the following requirements:
 - a. 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.
 - b. The cost will only be assessed if NIESA has the technological capability necessary to provide the public record in the requested non-paper physical media format.
 - c. NIESA will procure any non-paper media and will not accept media from the requestor in order to ensure the integrity of NIESA's technology infrastructure.
8. The cost to provide paper copies of records will be based on the following requirements:
 - a. Paper copies of public records made on standard letter (8 1/2 x 11) or legal (8 1/2 x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of the reproduction.
 - b. NIESA will provide records using double-sided printing, if it is cost-saving and available.
9. The cost to mail records to a requestor will be based on the following requirements:
 - a. The actual cost to mail public records using a reasonably economical and justified means.
 - b. NIESA may charge for the least expensive form of postal delivery confirmation.
 - c. No cost will be made for expedited shipping or insurance unless specified by the requestor.

10. If the FOIA Coordinator does not respond to a written request in a timely manner, NIESA must:
 - a. Reduce the labor costs by 5% for each day NIESA exceeds the time permitted under FOIA up to a 50% maximum reduction, if *any* of the following applies:
 - i. NIESA's late response was willful and intentional,
 - ii. The written request conveyed a request for information within the first 250 words of the body of the letter facsimile, email, or email attachment, or
 - iii. 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 in the subject line of an email, letter or facsimile cover page.
 - b. Fully note the charge reduction in the Detailed Itemization of Costs Form.

Section 3: Waiver of Fees:

The cost for the search for and copying of a public records 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 NIESA Board may identify specific records or types of records it deems should be made available for no charge at a reduced cost.

Section 4: Discounted Fees:

Indigence:

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- a. Indigent and receiving specific public assistance, or
- b. If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

An individual is not eligible to receive the waiver if:

- a. The requestor has previously received discounted copies of public records from NIESA twice during the calendar year; or
- b. The requestor requests information in connection with other persons who are offering or provided payment to make the request.

An affidavit is a sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

Nonprofit organization advocating for developmentally or mentally ill individuals

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from:

- a. A nonprofit organization formally designated by the State to carry out activities under subtitle C of the federal developmental disabilities assistance and bill of rights act of 200, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-310, or their successors, if the request meets *all* of the following requirements:
 - i. Is made directly on behalf of the organization or its clients.
 - ii. 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.
 - iii. Is accompanied by documentation of its designation by the State, if requested by the public body.