OTSEGO COUNTY'S
WRITTEN PUBLIC SUMMARY OF FOIA PROCEDURES AND GUIDELINES

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 the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, as amended, the following is the Written Public Summary of Otsego County's FOIA Procedures and Guidelines relevant to the general public. This is only a summary of the FOIA Procedures and Guidelines. For more details and information, copies of the FOIA Procedures Guidelines and are available at no charge at any County office and on the County's website at http://www.otsegocountymi.gov/online-servicesforms-4/.

1. How do I submit a FOIA request to Otsego County?

- A request must sufficiently describe a public record so as to enable the County to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist the County in providing a prompt response.
- Requests to the County may be submitted on the County's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.
    - Any verbal request will be documented by the County on the County's FOIA Request Form.
    - No specific form to submit a written request is required. However a FOIA Request Form and other FOIA-related forms are available for your use and convenience on the County's website at http://www.otsegocountymi.gov/online-servicesforms-4/ and at the County Clerk Office, 225 W. Main, Gaylord, MI 49735.
- Written requests may be delivered to the County in person or by mail:

  FOIA Coordinator
  County Administrator's Office
  Otsego County Building
  225 W. Main
  Gaylord, MI 49735

- Requests may be faxed to: (989) 731-7529. To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.

- Requests may be emailed to: rfrisch@otsegocountymi.gov or kwilliams@otsegocountymi.gov. To ensure a prompt response, email requests should contain the term “FOIA” or “FOIA Request” in the subject line.

2. What kind of response can I expect to my request?

- Within 5 business days of receipt of a FOIA request the County will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day. The County 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 indicating that due to the nature of the request the County needs an additional 10 business days to respond.
    - Issue a written notice indicating that the public record requested is available at no charge on the County’s website.

- If the request is granted, or granted in part, the County will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.
- If the cost of processing the request is expected to exceed $50, or if you have not paid for a previously granted request, the County will require a deposit before processing the request.

3. What are the County’s fee deposit requirements?

- If the County has made a good faith calculation that the total fee for processing the request will exceed $50.00, the County will require that you provide a deposit in the amount of 50% of the total estimated fee. When the County requests the deposit it will provide you a non-binding best efforts estimate of how long it will take to process the request following receipt by the County of your deposit.
- If the County receives a request from a person who has not paid the County for copies of public records made in fulfillment of a previously granted written request, the County will require a deposit of 100% 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% of the estimated fee;
    - the public records made available contained the information sought in the prior written request and remain in the County’s possession;
    - the public records were made available to the individual, subject to payment, within the time frame estimated by the County to provide the records;
    - 90 days have passed since the County 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 the County; and

- the County has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.

- The County will not require the 100% 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 the County;
  - the County is subsequently paid in full for all applicable prior written requests; or
  - 365 days have passed since the person made the request for which full payment was not remitted to the County.

4. How does the County calculate FOIA processing fees?

The Michigan FOIA statute permits the County 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 the County.
- 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 the County.
- 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 the County's website if you ask for the County to make copies.
- 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 the County's website if you ask for the County 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.
- Labor costs will be charged at the hourly wage of the lowest-paid County 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.
- Contracted labor costs will be charged at the hourly rate of 6 times the state minimum wage, as adjusted. This rate is currently $48.90/hour.

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 the County. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to the

County's usual FOIA requests, because of the nature of the request in the particular instance. The County must specifically identify the nature of the unreasonably high costs in writing.

Copying, Duplication and Mailing Costs

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

- **Non-paper Physical Media**
  - The cost for records provided on non-paper physical media, such as 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.
  - This cost will only be assessed if the County 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**
  - The cost to mail public records will use a reasonably economical and justified means.
  - The County may charge for the least expensive form of postal delivery confirmation.
  - No cost will be made for expedited shipping or insurance unless requested.

5. How do I qualify for a waiver or discount on the fee?

Waiver or reduction

- The cost of the search for and copying of a public record may be waived or reduced if in the sole discretion of the FOIA Coordinator a waiver or reduction of the fee is in the public interest because it can be considered as primarily benefiting the public. The County Board of Commissioners may identify specific records or types of records it deems should be made available for not charge or at a reduced cost.

Indigence discount

- The County will waive the first $20.00 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 $20.00 waiver if you:
  - have previously received discounted copies of public records from the County 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.

- An affidavit is sworn statement. For your convenience, the County has provided an Affidavit of Indigence for the waiver of FOIA fees, which is available on the County's website.

Nonprofit discount

- The County will waive the fee for an nonprofit organization which meets all of the following conditions:
  - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
  - the request is made directly on behalf of the organization or its clients;
  - the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
  - the request is accompanied by documentation of the organization's designation by the State

6. 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 file an appeal of the denial with the Otsego County Board of Commissioners. 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. The County may create a FOIA Appeal Form, which, if created, will be available on the County's website.

Within 10 business days of receiving the appeal the Otsego County Board of Commissioners 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 Board of Commissioners, you may file a civil action in the Otsego County Circuit Court within 180 days after the County's final determination to deny your request. Should you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the County acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of $1000.00

Appeal of an Excessive FOIA Processing Fee

If you believe that the fee charged by the County to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a

fee reduction to the Otsego County Board of Commissioners. The appeal must be in writing, specifically state the word “appeal” and identify how the required fee exceeds the amount permitted. The County may create a FOIA Fee Appeal Form, which, if created, will be available on the County’s website.

Within 10 business days after receiving the appeal, the Otsego County Board of Commissioners 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 issue 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 period during which Otsego County Board of Commissioners will respond to the written appeal.

Within 45 days after receiving notice of the Board of Commissioner’s determination of the processing fee appeal, you may commence a civil action in Otsego County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% 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 the County acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of $500.00.

Need more details or information?

This is only a summary of Otsego County’s FOIA Procedures and Guidelines. For more details and information, copies of the Otsego County’s FOIA Procedures and Guidelines are available at no charge at any County office and on the County’s website, www.otsegocountymi.gov.

Adopted June 9, 2015

County: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

Otsego County
Otsego County Building
225 W. Main, Gaylord, MI 49735
Phone: (989) 731-7520 Fax: (989) 731-7529

Request Form
Note: Requestors are not required to use this form. The county may complete one for recordkeeping if not used.

FOIA Request for Public Records

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, *et seq*.

Request No.: _____ Date Received: _____

Check if received via: ☐ Email ☐ Fax ☐ Other Electronic Method
Date delivered to junk/spam folder: _____
Date discovered in junk/spam folder: _____

(Please Print or Type)

Name		Phone
Firm/Organization		Fax
Street		Email
City	State	Zip

Request for: ☐ Copy ☐ Certified copy ☐ Record inspection ☐ Subscription to record issued on regular basis

Delivery Method: ☐ Will pick up ☐ Will make own copies onsite ☐ Mail to address above ☐ Email to address above
☐ Deliver on digital media provided by the county: _____

Note: *The county is not required to provide records in a digital format or on digital media if the county does not already have the technological capability to do so.*

Describe the public record(s) as specifically as possible. You may use this form or attach additional sheets**:**

Consent to Non-Statutory Extension of County's Response Time

I have requested a copy of records or a subscription to records or the opportunity to inspect records, pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, *et seq*. I understand that the county must respond to this request within five (5) business days after receiving it, and that response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the county's response time for this request until: _____ (*month, day, year*).

Requestor's Signature	**Date**

(Complete both sides)

Records Located on Website

If the county directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from any labor charges to redact (*separate exempt information from non-exempt information*).

If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the county must notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the detailed cost itemization form, the county must separate the requested public records that are available on its website from those that are not available on the website and must inform the requestor of the additional charge to receive copies of the public records that are available on its website.

If the county has included the website address for a record in its written response to the requestor and the requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form, including digital media, the county must provide the public records in the specified format (if the county has the technological capability) but may use a fringe benefit multiplier greater than the 50%, not to exceed the actual costs of providing the information in the specified format.

Request for Copies/Duplication of Records on County Website

I hereby stipulate that, even if some or all of the records are located on a county website, I am requesting that the county make copies of those records on the website and deliver them to me in the format I have requested above. I understand that some FOIA fees may apply.

Requestor's Signature	Date

Overtime Labor Costs

Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.

Consent to Overtime Labor Costs

I hereby agree and stipulate to the county using overtime wages in calculating the following labor costs as itemized in the following categories:

1. ☐ Labor to copy/duplicate **2.** ☐ Labor to locate **3a.** ☐ Labor to redact **3b.** ☐ Contract labor to redact
6b. ☐ Labor to copy/duplicate records already on county's website

Requestor's Signature	Date

Request for Discount: Indigence

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first $20.00 of the fee** for each request by an individual who is entitled to information under the FOIA and who:

1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, **OR**
2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if **ANY** of the following apply:

(i) The individual has previously received discounted copies of public records from the County twice during that calendar year,
(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

Office Use: ☐ Affidavit Received ☐ Eligible for Discount ☐ Ineligible for Discount

I am submitting an affidavit and requesting that I receive the discount for indigence for this FOIA request: Requestor's Signature:	Date:

Request for Discount: Nonprofit Organization

A public record search **must** be made and a copy of a public record **must** be furnished **without charge for the first $20.00 of the fee** for each request by a nonprofit organization 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, 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 county.

Office Use: ☐ Documentation of State Designation Received ☐ Eligible for Discount ☐ Ineligible for Discount

I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its clients and 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: Requestor's Signature:	Date: