



## Freedom of Information Act (FOIA) Procedures and Guidelines

The Michigan Freedom of Information Act (FOIA), outlined in MCL 15.231-15.243, grants public access to specific public information, allows for the imposition of specified fees and deposits, and outlines remedies and penalties for non-compliance. Individuals are entitled to inspect, copy, or obtain copies of certain requested public records. However, certain public records may be exempt from disclosure. As a public body, CUPPAD is obligated to adhere to the provisions of the FOIA. To ensure compliance with state law, CUPPAD has established the following procedures and guidelines. In these procedures and guidelines, terms are interpreted as defined in the FOIA. A comprehensive version of the FOIA can be accessed on the Michigan Legislature website at [www.legislature.mi.gov](http://www.legislature.mi.gov)

### I. WRITTEN PUBLIC SUMMARY

#### A. How to Submit Written Requests

A written request to inspect, copy, or review a public record should be submitted to CUPPAD's FOIA Coordinator.

- FOIA requests can be sent via U.S. Mail to:

FOIA Coordinator  
CUPPAD  
2950 College Ave  
Escanaba, MI 49829

- FOIA requests sent via email should be sent to: [dlajoye@cuppadd.org](mailto:dlajoye@cuppadd.org)

A request from a person, other than an individual who qualifies as indigent under section 4(2)(a) of MCL 15.234, must include the requestor's complete name, address, and contact information, and if the request is made by a person other than the individual, the complete name, address, and contact information of the person's agent who is an individual. Addresses must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid

telephone number or electronic mail address. Indigent individuals are not required to provide name, address, and contact information.

A request should provide adequate details about the public records, enabling CUPPAD to locate the requested information. You can find a sample Request Form attached to these Procedures and Guidelines as Attachment A.

Instead of paper copies, the requestor can specify that CUPPAD delivers non-exempt public records on non-paper physical media, via electronic mail, or in any other electronic format. CUPPAD is not obligated to furnish non-exempt public records on non-paper physical media if it lacks the technological capability to provide the requested records in the specified non-paper format. CUPPAD is also not obliged to use non-paper physical media provided by the requestor, and as a measure to protect CUPPAD's information technology infrastructure, it will refrain from doing so. It is important to note that computer software is not considered a public record.

Additionally, individuals have the option to request a certified copy of a public record.

## **B. Explanation of Written Responses**

CUPPAD commits to responding to a written FOIA request within five (5) business days (excluding weekends and legal holidays) from the receipt of the request unless there is a mutually agreed-upon alternative arrangement in writing with the requestor. The determination of the date of receipt varies depending on the method of delivery to CUPPAD (e.g., hand-delivery, regular mail, email).

Upon receiving a request, CUPPAD will take one of the following actions:

- (a) approve the request;
- (b) issue a written denial of the request;
- (c) partially approve the request and provide a written denial for the remaining portion; or
- (d) extend the response period by up to 10 business days through a notice to the requestor.

CUPPAD will not issue more than one extension notice for a specific request.

If a requestor seeks information available on CUPPAD's website, the response will include notification of where to locate the records online. While paper copies of

records from CUPPAD's website are obtainable upon request, a fee may be applicable, as detailed in Section II. (D) and the comprehensive fee itemization form.

CUPPAD will offer suitable facilities for a requestor to inspect nonexempt public records during CUPPAD's regular business hours. The FOIA Coordinator will establish rules governing the manner in which records can be inspected to safeguard CUPPAD's records against loss, alteration, mutilation, or destruction, and to prevent undue interference with CUPPAD's normal operations.

Should a request be denied, either in whole or in part, CUPPAD will provide a written notice of denial containing an explanation for the refusal. If applicable, the notice will include a certificate stating that the public record does not exist under the name provided by the requestor, or any other name reasonably known to CUPPAD. An illustrative Certificate of Non-Existence of Public Record can be found in Attachment B. In cases where a public record or information is exempted from disclosure and is redacted, CUPPAD will offer a general description of the exempted material, unless such a description would unveil the contents of the exempt information and undermine the purpose of the exemption.

### **C. Deposit Requirements**

In cases where CUPPAD anticipates that the fee, as authorized by the FOIA and outlined in these FOIA Procedures and Guidelines for responding to a request, will surpass Fifty Dollars (\$50.00), CUPPAD reserves the right to request a good-faith deposit from the requestor before furnishing the requested records. This deposit is capped at one-half ( $\frac{1}{2}$ ) of the total estimated fee and is accompanied by a detailed breakdown of estimated fee amounts. The FOIA Coordinator will furnish the requestor with a comprehensive itemization of allowable fees anticipated for processing the request. Along with the request for a good-faith deposit, CUPPAD will provide a best effort estimate of the timeframe within which it aims to supply the requested public records. While this timeframe estimate is not binding, CUPPAD will make it in good faith and strive for reasonable accuracy.

If a required deposit under subsection (8) or (11) of MCL 15.234 is not received by CUPPAD within 45 days from the requestor's receipt of the deposit notice and if no appeal has been filed within that time, the request is deemed "Abandoned," and CUPPAD is no longer obligated to fulfill the request. Notice of a deposit requirement is considered received three days after it is sent, regardless of the means of transmission. Additionally, a deposit requirement notice under subsection (8) or (11) must specify the date by which the deposit must be received, which is 48 days after the notice is sent.

In instances where a requestor previously sought public records from CUPPAD, and CUPPAD timely provided those records but was not fully compensated for the total estimated fee, CUPPAD may, within the bounds of the FOIA, request a deposit of up to 100% of the estimated fee for subsequent request(s).

## **D. Fee Calculations**

The FOIA allows CUPPAD to assess six components for fees: (a) labor costs related to searching for, locating, and examining public records; (b) labor costs associated with separating or redacting exempt information from non-exempt information; (c) labor costs for duplicating or publishing requested public records; (d) the actual costs of paper copies (with a ceiling of 10 cents per sheet for standard 8-1/2 by 11 or 8-1/2 by 14 sheets of paper); (e) the actual costs of non-paper physical media (e.g., flash drive, CD), if requested and if CUPPAD possesses the technological capability to comply; and (f) the actual costs of postal delivery. For a more comprehensive understanding of CUPPAD's fee calculations, including potential reductions for delayed responses, please refer to Section II. (D) of the Procedures and Guidelines and Attachment C, the Detailed Itemization of Fee Amounts Form. Prior to making the requested records available, the FOIA Coordinator will mandate full payment for the allowable fees.

1. **Fee Waivers.** A public record search or the provision of copies of public records may be conducted at no cost or at a reduced charge if CUPPAD deems that waiving or reducing the fee serves the public interest. This determination is based on the consideration that searching for or providing copies of public records can be viewed as predominantly benefiting the public.
2. **Discounts.** Under specified conditions, CUPPAD will conduct a public record search and provide a copy of a non-exempt public record without charge for the first \$20.00 of the processing fee in the following circumstances:
  - a. If an individual entitled to information under the FOIA:
    - i. Submits an affidavit affirming that they receive specific public assistance or face financial hardship and are unable to pay the fee, with a statement that the request is not made in collaboration with external parties for payment or other compensation.
    - ii. Has not previously received discounted copies of public records from CUPPAD twice in the same calendar year.
  - b. If a nonprofit corporation officially designated by the State of Michigan to execute activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-

402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, submits a request meeting the following criteria:

- i. Made directly on behalf of the organization or its clients.
- ii. Aligned 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 CUPPAD

## **E. Challenges and Appeals**

3. **Challenge to Denial.** If CUPPAD does not respond to a FOIA request or issues a conclusive denial for all or part of a request, the requestor has the option to appeal to CUPPAD's Executive Committee or initiate legal action in the circuit court for the county where the public record or CUPPAD's office is situated. Refer to Section II. E of these FOIA Procedures and Guidelines for a comprehensive explanation of the procedures and timelines pertaining to the appeal process for record denials.
4. **Challenge to Fee.** If CUPPAD necessitates a fee that the requestor deems to surpass the allowable amount under the FOIA or CUPPAD's publicly available procedures and guidelines, the requestor has the option to initiate legal action in the circuit court for the county where the public record or CUPPAD's office is situated. For a thorough understanding of the procedures and timelines related to a fee appeal, please refer to Section II. E of these FOIA Procedures and Guidelines.

## **II. PROCEDURES AND GUIDELINES**

### **A. Requests**

1. All "persons," except those incarcerated in state or local correctional facilities are entitled to submit a FOIA request to CUPPAD. A "person" is defined for purposes of the FOIA to mean "an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity."
2. A FOIA request is a written request to inspect, copy, or receive copies of a public record. A request must describe the public record in sufficient detail to enable CUPPAD to find the requested record. The request must contain the requestor's (1) complete name (first and last name), (2) mailing address, and

(3) either a phone number or email address. The provided mailing address must adhere to United States Postal Service addressing standards. If the request comes from an organization, business, or entity, the contact information of an agent or representative must be included. An individual classified as indigent under FOIA is exempt from providing contact information CUPPAD suggests requestors use the sample Request Form.

CUPPAD's FOIA Coordinator is responsible for processing requests to inspect, copy, or receive copies of public records. FOIA requests should be sent to CUPPAD's FOIA Coordinator.

- FOIA requests can be sent via U.S. Mail to:  
FOIA Coordinator  
2950 College Ave  
Escanaba, MI 49829

- FOIA requests sent via email should be sent to: [dlajoye@cuppad.org](mailto:dlajoye@cuppad.org)

3. If another CUPPAD employee receives a written request to inspect, copy, or receive copies of a public record, the employee should promptly forward the request to CUPPAD's FOIA Coordinator. Requestors are not required to use the sample Request Form, or to include the word "FOIA" in the request. Therefore, all written requests to inspect, copy, or receive copies of records should be promptly forwarded to the FOIA Coordinator for review.
4. All written requests received by CUPPAD shall be kept on file for a period of at least one year.
5. Upon written request, CUPPAD's FOIA Coordinator shall furnish a certified copy of a public record to the requestor.

## **B. Responses**

1. CUPPAD commits to addressing a written FOIA request within five business days (excluding weekends and legal holidays) from the date of receiving the request unless an alternative arrangement is mutually agreed upon in writing by the requestor. The definition of the date of receipt by CUPPAD varies according to the delivery method used for the FOIA request (e.g., hand-delivery, regular mail, or email) as specified in FOIA.
2. CUPPAD will respond to a request by taking one of the following actions:
  - approve the request.
  - provide a written notice of rejection for the request.
  - partially approve the request and issue a written notice of rejection for part of the request.

- issue a notice of extension of the response period by up to ten business days. CUPPAD will not issue more than one notice of extension for a specific request.
3. If a request is declined either entirely or partially, CUPPAD will incorporate an explanation in the denial. Additionally, if applicable, a certificate will be included stating that the public record does not exist under the name provided by the requestor or under another name reasonably known to CUPPAD. A sample Certificate of Non-Existence of Public Record is included in these procedures and guidelines.
    - Disclosure exemptions are set forth in Section 13 of the FOIA, MCL 15.243, which is available on the Michigan's Legislature website at [www.legislature.mi.gov](http://www.legislature.mi.gov).
    - Should a public record or information be redacted and withheld from disclosure, CUPPAD will furnish a broad overview of the exempt material, unless such a description would disclose the contents of the exempt information, thereby undermining the purpose of the exemption.
  4. The timeframe for responding to a FOIA request is contingent on the method of delivery. If a request is mailed or hand-delivered, it is considered received under the FOIA on the day it reaches CUPPAD. For requests sent via email, the FOIA deems them received one business day after the electronic transmission date. If an email request is redirected to CUPPAD's spam or junk mail folder, it is not considered received until one day after its discovery in the spam or junk mail folder. The FOIA Coordinator is responsible for documenting both the time a written request is placed in the spam or junk-mail folder and the moment CUPPAD becomes aware of the request. CUPPAD conducts a review of the FOIA Coordinator's spam or junk mail folder at least once every 30 days.
  5. CUPPAD commits to addressing a written FOIA request within five business days (excluding weekends and legal holidays) from the date of receiving the request unless an alternative arrangement is mutually agreed upon in writing by the requestor. The definition of the date of receipt by CUPPAD varies according to the delivery method used for the FOIA request (e.g., hand-delivery, regular mail, or email) as specified in FOIA.
  6. If a request is completely approved, the CUPPAD will furnish copies of, or an opportunity to inspect, all the requested public records, subject to the payment of any applicable fees. No pages will be omitted, and no redaction will be applied.
  7. CUPPAD will offer suitable facilities for a requestor to examine non-exempt public records during regular business hours. The FOIA Coordinator will

institute regulations governing the way records can be inspected to safeguard CUPPAD's records against loss, alteration, mutilation, or destruction, and to prevent undue interference with CUPPAD's regular operations.

8. Instead of paper copies, the requestor may specify that CUPPAD delivers non-exempt public records on non-paper physical media, through email, or by other electronic means. However, CUPPAD is not obligated to produce non-exempt public records on non-paper physical media if it lacks the necessary technological capability for the specified format. Additionally, CUPPAD is not obligated to use non-paper physical media provided by the requestor and, to safeguard its information technology infrastructure, will not do so.
9. If a FOIA request is partially denied, it indicates that certain records or portions of records will be disclosed, while others will not. CUPPAD will furnish copies of or offer an opportunity to inspect the nonexempt records, with the possibility of withholding or redacting exempt information (which may include entire documents, pages, or specific information on a page). The written notice of a partial denial will contain an explanation for the denial and, if applicable, a certificate stating that one or more public records do not exist under the name provided by the requestor, or another name reasonably known to CUPPAD. Each denial will also include a link to or a copy of these Procedures and Guidelines (including the Public Summary and Attachments).
10. Failure by CUPPAD to respond to a FOIA request within the specified timelines is considered a denial of the request. The allowable labor fee that CUPPAD can charge will be reduced by 5% per day, up to a 50% reduction, if the failure to respond timely was willful or intentional, or if the request contained language clearly conveying a FOIA request (refer to Section II. D, Fees).
11. The FOIA does not obligate CUPPAD to create new records or compile, summarize, or report on existing records. If a request seeks records that do not exist, CUPPAD will certify that no records responsive to the request exist under the provided name or description or under another name known to CUPPAD (see the sample Certificate of Non-Existence of Public Record in Attachment B).
12. When a request pertains to information available on CUPPAD's website, the requestor will be informed of the location of the records in the response. If the requestor desires paper copies of website information, fees may apply, as outlined in the detailed fee itemization form, with no charge for separating exempt from nonexempt material.



## C. Deposit Requirements

1. In cases where CUPPAD anticipates that the fee, as authorized by the FOIA and these FOIA Procedures and Guidelines, for responding to a request will surpass Fifty Dollars (\$50.00), CUPPAD may request a deposit from the requestor prior to furnishing the requested records. The deposit should not surpass one-half (1/2) of the total estimated fee and must encompass a comprehensive breakdown of the estimated fee amounts. With its request for a deposit, CUPPAD shall provide a best effort estimate of the time frame the public records shall be furnished to the requestor.
2. If a deposit required under subsection (8) or (11) of MCL 15.234 is not received by CUPPAD within 45 days from the requestor's receipt of the deposit notice, and if no appeal of the deposit amount has been filed pursuant to MCL 15.240, Section 10a, the request will be deemed "Abandoned" by the requestor, and CUPPAD is no longer obligated to fulfill the request. Notice of a deposit requirement is considered received three days after it is sent, regardless of the means of transmission. A deposit requirement notice under subsection (8) or (11) must specify the date by which the deposit must be received, and this date is 48 days after the notice is sent.
3. In instances where a requestor previously sought public records from CUPPAD and CUPPAD timely provided those records but was not fully compensated for the total estimated fee, CUPPAD may, within the bounds of the FOIA, require a deposit of up to 100% of the estimated fee for subsequent request(s).

## D. Fees

1. **Fee Waivers.** A public record search or the provision of copies of public records may be conducted without charge or at a reduced rate if CUPPAD, at its discretion, deems that waiving or reducing the fee serves the public interest., or the furnishing of requested records does not result in unreasonably high costs to CUPPAD. This determination is based on the consideration that searching for or providing copies of public records can be viewed as primarily benefiting the general public.
2. **Imposing Fees.** In evaluating whether such costs are deemed "unreasonably high," CUPPAD will assess, on a case-by-case basis, the estimated expenses in consideration of the request's volume and complexity relative to the standard or typical costs typically incurred by CUPPAD in responding to FOIA requests. Fees are computed utilizing the comprehensive fee itemization form, Attachment C,

attached to these Guidelines and Procedures. CUPPAD imposes the subsequent fees:

- a. *Charges for labor include expenses incurred for the search, location, and examination of public records.* Labor costs are computed in 15-minute intervals and will not surpass the hourly rate of the least-paid employee proficient in searching for, locating, and examining the public records. Overtime charges will not be applied unless specifically requested by the requestor, approved by CUPPAD, and specified on the fee itemization form. The hourly rate of the least-paid employee capable of performing these tasks may vary depending on the nature of the records sought and the corresponding qualifications or authorizations necessary to search for, locate, or examine the requested records. All fees will be detailed on the fee itemization form.
- b. *Labor expenses associated with the segregation and removal of exempt information from non-exempt information.* Labor expenses associated with the segregation and removal of exempt information from non-exempt data will be computed in 15-minute intervals (rounded down) and will not surpass the hourly rate of the least-compensated employee proficient in the task. Overtime charges will only be applied if explicitly requested by the requestor, endorsed by CUPPAD, and documented in the fee breakdown form. The hourly wage of the least-paid employee capable of discerning and erasing exempt content from non-exempt material may fluctuate based on the complexity of the sought-after records and the requisite qualifications or authorizations for the redaction process. In instances where the CUPPAD FOIA Coordinator determines, on a case-by-case basis, that no CUPPAD employee possesses the necessary capabilities, CUPPAD reserves the right to engage the services of a contracted provider, with labor costs calculated in 15-minute intervals (rounded down) and an hourly rate not exceeding 6 times the state minimum wage. All incurred charges will be explicitly outlined in the fee breakdown form.
- c. *Costs of duplication of paper records.* The actual cost of reproducing paper records will be assessed by CUPPAD. For 8-1/2 by 11-inch or 8-1/2 by 14-inch sheets of paper, a charge of \$0.10 cents per sheet will apply. However, for paper sheets of non-standard sizes, the actual cost of duplication may surpass the standard \$0.10 cents per sheet charge. CUPPAD is committed to employing the most cost-effective methods for duplicating public records, which may include utilizing double-sided printing when feasible to achieve cost savings.
- d. *Real labor expenses for the replication or dissemination of records will be applied.* Charges by CUPPAD for the replication or dissemination of

records will not surpass the hourly wage of the least compensated staff member proficient in the task. The hourly wage of the least-paid employee with the capability to duplicate or publish records may fluctuate based on the complexity of the records being sought. Fees for replication or publication are computed in 15-minute intervals (rounded down), and a comprehensive breakdown of all charges will be documented on the fee itemization form.

- e. *Costs for non-paper physical media.* Expenses related to non-paper physical media: A requestor has the option to specify that records be provided on non-paper physical media, such as a flash drive or CD. If CUPPAD possesses the technological capabilities to fulfill the request for production on non-paper physical media, the charges may include the actual and most economically reasonable cost of the requested non-paper physical media. The cost of non-paper physical media will be itemized on the fee itemization form.
  - f. *Postal delivery charges.* CUPPAD has the authority to assess the expenses associated with the most economical form of postal delivery. In cases where a requestor needs expedited mailing and CUPPAD consents to provide such service, the actual costs of the expedited mailing may be charged and will be detailed on the fee itemization form.
3. **Fee Reductions.** If the FOIA Coordinator fails to respond to a written request within the time periods mandated by the FOIA, CUPPAD will decrease the charges for labor costs, as otherwise allowed under the FOIA and these Procedures and Guidelines, by 5% for each day exceeding the permissible response time, with a maximum reduction of 50%. This reduction will be applied if either of the following conditions is met:
- The delay in response was deliberate and intentional.
  - The written request contained language indicating a request for information within the first 250 words of the body of a letter, email, or email attachment, or explicitly included terms such as "freedom of information," "information," "FOIA," "copy," or a recognizable misspelling of such, or an appropriate legal code reference for this act, on the front of an envelope or in the subject line of an email or letter. Should a fee reduction be necessary, CUPPAD will thoroughly document the reduction on the detailed fee itemization (Attachment C).
4. **Payment.** The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.

5. **Discounts.** Under the following conditions, CUPPAD will conduct a public record search and provide a copy of a non-exempt public record without charge for the first \$20.00 of the processing fee:
- a. If an individual entitled to information under the FOIA:
    - Submits an affidavit affirming that they receive specific public assistance or face financial hardship, and the request is not made in collaboration with external parties for payment or other compensation.
    - Has not previously received discounted copies of public records from CUPPAD twice during the same calendar year.
  - b. If a nonprofit corporation officially designated by the State of Michigan to execute activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, submits a request meeting the following criteria:
    - Made directly on behalf of the organization or its clients.
    - Aligned with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
    - Accompanied by documentation of its designation by the state, if requested by CUPPAD.

## **E. Appeals**

A requestor may appeal any denial of records or any fee charges for public records.

**1. Challenge to Denial.** If CUPPAD does not respond to a FOIA request or issues a conclusive denial for all or part of a request, the requestor has the option to appeal to CUPPAD's Executive Committee or initiate legal action in the circuit court for the county where the public record or CUPPAD's office is situated. Refer to Section II. E of these FOIA Procedures and Guidelines for a comprehensive explanation of the procedures and timelines pertaining to the appeal process for record denials.

- i. An appeal is not considered "received" until the first regularly scheduled Executive Committee meeting after its submission. Executive Committee meetings are held monthly with the exception of no meeting in December.
- ii. Within ten (10) business days after receiving the appeal, the Executive Committee will take one of the following actions:

- A. Reverse the denial.
  - B. Issue written notice upholding the denial.
  - C. Reverse the denial in part and issue written notice upholding the denial, in part.
  - D. Issue written notice extending the time for response by not more than ten (10) business days.
- iii. If the Executive Committee fails to respond promptly to the written appeal or upholds all or part of the disclosure denial, the requestor may seek judicial review by initiating a civil action in circuit court.
- b. A requestor is not obligated to submit an appeal to the Executive Committee before commencing a civil action in circuit court to contest a disclosure denial. If the circuit court determines that the requested record is not exempt from disclosure, it will instruct CUPPAD to cease withholding or produce the wrongfully withheld public record, either in part or in full. If the court finds that a disclosure denial was arbitrary, capricious, willful, intentional, or made in bad faith, it will order CUPPAD to pay a civil fine to the state and award punitive damages to the requestor. If the person asserting the right to access a public record prevails in the circuit court action, the court will also mandate that CUPPAD cover the requestor's reasonable attorneys' fees, costs, and disbursements. In cases where either the requestor or CUPPAD prevails in part, the court may, at its discretion, grant CUPPAD all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

**2. Challenge to Fee.** If CUPPAD imposes a fee (including a deposit) that the requestor believes surpasses the permissible amount under the FOIA or the publicly available Procedures and Guidelines, the requestor may, within 45 days after receiving notice of the required fee, initiate legal action in the circuit court for the county where the public record or CUPPAD's office is situated.

- a. Should the court find that the fee exceeds the allowable amount under the FOIA or these Procedures and Guidelines, it will adjust the fee to the permissible amount, if any.
- b. If the requestor prevails in an action initiated under this section, securing a reduction of 50% or more of the total fee, the court may, at its discretion, grant all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.
- c. If the court determines that CUPPAD arbitrarily and capriciously violated the FOIA by imposing an excessive fee or acted in bad faith, it will instruct CUPPAD to pay a civil fine to the state and award punitive damages to the requestor.

**F. Questions**

Any questions regarding these Procedures and Guidelines should be directed to CUPPAD's FOIA Coordinator.

**G. Attachments**

- A. Sample FOIA Request Form
- B. Sample Certificate of Non-Existence Public Record
- C. Standard Form for Detailed Itemization of Fees

**ATTACHMENT A**

**SAMPLE FOIA REQUEST FORM**

[date]

Dotty Lajoie, FOIA Coordinator  
2950 College Ave  
Escanaba, MI 49829

***Re: Freedom of Information Act Request***

Dear FOIA Coordinator:

I am writing to request, pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., [to inspect] [to copy] [to obtain copies of] the following public records:

[INSERT DESCRIPTION OF RECORDS SOUGHT]

**OPTIONAL:** Please provide a copy of the requested public records on [INSERT DESCRIPTION OF DESIRED NON-PAPER PHYSICAL MEDIUM, SUCH AS CD, FLASHDRIVER].

**OPTIONAL:** Please waive or reduce the fee to search for or furnish copies of the requested public records on grounds that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

**OPTIONAL:** Please furnished the requested records without charge for the first \$20.00 of the fee because (A) I am receiving public assistance [INSERT SPECIFIC DESCRIPTION] or am unable to pay the fee because of indigence; (B) I am not making this request in conjunction with outside parties in exchange for payment or other remuneration; and (C) I have not previously received discounted copies of public records from CUPPAD twice during the same calendar year.

**OPTIONAL:** Please furnished the requested records without charge of the first \$20.00 of the because (A) this request is made directly on behalf of a nonprofit corporation formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, or on behalf of its clients; (B) this request 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 3258, MCL 330.1931; and (C) this request is accompanied by documentation of designation by the state.

Please contact me if you have any questions.

Sincerely,  
[REQUESTOR COMPLETE NAME]  
[REQUESTOR ADDRESS]  
[REQUESTOR EMAIL]  
[REQUESTOR PHONE NUMBER]

**ATTACHMENT B**

**SAMPLE CERTIFICATE OF NON-EXISTENCE OF PUBLIC RECORD**

[date]

[REQUESTOR'S NAME]

[REQUESTOR'S ADDRESS]

**Re: Freedom of Information Act Request Dated \_\_\_\_\_, 20\_\_**

Dear Mr./Mrs. \_\_\_\_\_:

The [NAME OF PUBLIC BODY] is in receipt of your letter dated \_\_\_\_\_, 20\_\_, regarding a request under the Michigan Freedom of Information Act ("FOIA"). Your letter was received on [INSERT STATUTORY RECEIPT DATE]. You requested [INSERT DESCRIPTION OF RECORDS SOUGHT].

I hereby certify, pursuant to Section 5(4)(b) of the FOIA, that your FOIA request is denied because, to the best of my knowledge, information, and belief, no public records exist as of [INSERT STATUTORY RECEIPT DATE], under the name(s) set forth in your request as detailed below, nor under another name reasonably known to CUPPAD. MCL 15.235(4)(b).

**RIGHT TO APPEAL DISCLOSURE DENIAL  
AND RECOVER ATTORNEYS FEES AND COSTS**

If a public body makes a final determination to deny all or a portion of a FOIA request, the requesting person may do one of the following at his or her option:

- (1) Submit to the "head of the public body" (the Executive Committee) a written appeal that specifically state the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or
- (2) Commence an action in the circuit court to compel the public body's disclosure of the public records.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in action commenced under section 10 of the FOIA, the court shall award reasonable attorney's fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorney's fees, costs, and disbursements. The award shall be assessed against the public body liable for damages that kept or maintained the public record as part of its public function.

If the circuit court determines in an action commenced under section 10 of the FOIA that CUPPAD arbitrarily and capriciously violated the FOIA by refusal or delay in disclosing or providing copies of a public record, or that CUPPAD willfully and intentionally failed to comply



## ATTACHMENT B

with the FOIA or otherwise acted in bad faith, the court shall award, in addition to any actual or compensatory damages, punitive damages as prescribed in the FOIA to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

***A full explanation of your right to seek either appeal or judicial review is set forth in Section 10 of the FOIA, MCL 15.240.***

A copy of CUPPAD's FOIA Procedures and Guidelines is available on the CUPPAD website at [www.cuppad.org](http://www.cuppad.org)

Very truly yours,

By: \_\_\_\_\_

DOTTY LAJOYE  
FOIA Coordinator  
CUPPAD

ATTACHMENT C

**FREEDOM OF INFORMATION ACT DETAILED ITEMIZATION OF FEES**

Requestor's name/address:		<input type="checkbox"/> Hand-Delivered <input type="checkbox"/> U.S. Mail <input type="checkbox"/> E-mail <input type="checkbox"/> Other
FEE CALCULATION		AMOUNT
<b>Labor costs* to search, locate, and examine:</b>		
_____ Hours x \$ _____ (hourly wage)		\$
<b>Labor costs* for review and separation of exempt from non-exempt material:</b>		
_____ Hours x \$ _____ (hourly wage)		\$
<b>Labor costs* to duplicate or publish:</b>		
_____ Hours x \$ _____ (hourly wage)		\$
<b>Duplication and publication: Describe (copying, scanning, etc.)</b>		
\$ _____ (cost per page) x _____ number of pages		\$
Non-paper physical media: Describe (e.g. CD's, DVD's, flash drive, etc.) and list actual costs.		\$
Mailing: Describe and list actual costs.		\$
Less waiver for indigent persons (\$20.00) **		\$
Less reduction for untimely response:		
\$ _____ subtotal x 5% reduction per day x _____ days		\$
<i>If the total fee is more than \$50.00, you will be asked to pay a deposit of one-half of the amount of the total fee. <b>The total fee and deposit are estimates</b>, and your final costs may vary from these amounts. ***</i>		Deposit: \$
Part or all of the documents requested are available online at: If you prefer to have copies of these documents sent to you, please forward payment to CUPPAD for processing.		\$
<b>Balance to be paid: ***</b>		\$
Make Check/Money Order payable and mail to:	<b>FOIA Coordinator</b> <b>CUPPAD</b> <b>2950 COLLEGE AVE</b> <b>ESCANABA, MI 49829</b>	

\*Labor costs will be calculated using the lowest paid CUPPAD employee capable of each task.

\*\* You must submit an affidavit of indigence to qualify for this fee waiver.

\*\*\*PER MCL 15.234(14), if the good-faith deposit is not received by \_\_\_\_\_ (48 days after the notice is sent) the request will be considered "ABANDONED".