



AREA COMMUNITY SERVICES EMPLOYMENT AND TRAINING COUNCIL (ACSET) FREEDOM OF INFORMATION ACT (FOIA) POLICY

5.2.2. Freedom of Information Act (Public Act 442 of 1976)

I. Identification of the Policy

It is the policy of ACSET that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the decision-making process of ACSET and its associated bodies, and the official acts of its public officials and employees, consistent with the FOIA.

The purpose of this policy is to establish a procedure for responding to requests for public records submitted by a person pursuant to the FOIA.

II. Definitions.

- A. "FOIA" means the Michigan Freedom of Information Act (MCL 15.231 et. seq.)
- B. "Field Name" means the label or identification of an element of a computer data base that contains a specific item of information, and includes but is not limited to a subject heading such as a column header, data dictionary, or record layout.
- C. "FOIA Coordinator" means the individual designated by ACSET to respond to requests for public records under the FOIA.
- D. "Person" means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. "Person" does not include an individual serving a sentence of imprisonment in a state or county correctional facility in Michigan or any other state, or in a federal correctional facility.
- E. "Public Body" shall include:
 - 1. ACSET, including its Governing Board;
 - 2. The West Michigan Works! Workforce Development Board;

ACSET is the custodian of records for all of the above - public bodies.

- F. "Public Record" means a writing prepared, owned, used, in the possession of, or retained by ACSET, or any of the other public bodies described in subsection E, in the performance of an official function, from the time it is created. "Public record" does not include computer software.
- G. "Redaction" means the editing of a public record by deletion, masking or separation to remove exempt material from nonexempt material.

H. "Software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task or result. Software does not include computer-stored information or data, or a field name if disclosure of that field name does not violate a software license.

I. "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

1. The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.

2. The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

J. "Writing" means handwriting, typewriting, printing, photo stating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.

K. "Written request" means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

III. Procedure for Responding to Requests for Public Records

A. FOIA Coordinator.

1. An ACSET Staff Attorney, or his or her designee, shall be the FOIA Coordinator with the authority to respond to requests for public records submitted to ACSET and the other public bodies described in section II.E.

a. The FOIA Coordinator shall be responsible for accepting and processing requests for such public records, redaction of any exempt material contained in a public record, and shall be responsible for granting or denying such requests.

b. The FOIA Coordinator shall have the authority to determine whether ACSET employs an individual who is capable of redacting exempt material in a requested public record.

c. The FOIA Coordinator shall have the authority to determine whether complying with a written request under the FOIA would result in unreasonably high costs to ACSET.

- d. The FOIA Coordinator may also establish and calculate fees for the provision of public records in response to written requests, as provided by Section IV, and determine whether a fee will be charged for complying with a request.
2. Any ACSET official, officer or employee, or a member of any public body described in section II.E who receives a written request for a public record or records shall immediately transmit the request to the FOIA Coordinator personally, by facsimile, or by e-mail within one (1) business day of its receipt.

B. Requests for Public Records

1. If the information requested verbally is available on ACSET's website, the employee who receives the request shall, where practicable and to the best of his or her knowledge, inform the requesting party of ACSET's pertinent website address.
2. Upon receipt of a written request for a public record that describes it sufficiently for it to be located, the FOIA Coordinator shall, within five (5) business days of its receipt by ACSET or another public body described in section II. E. (unless otherwise agreed to in writing by the person submitting the request):
 - a. Grant the request.
 - b. Issue a written notice to the requesting person denying the request.
 - c. Grant the request in part and issue a written notice to the requesting person denying the request in part.
 - d. Issue a written notice extending for not more than ten (10) business days the period during which the FOIA Coordinator shall respond to the request. However, the FOIA Coordinator shall not issue more than one notice of extension for a particular request, and the notice must describe the reason(s) for the extension of time.
 - e. If the written request fails to sufficiently describe a public record, the FOIA Coordinator may respond with a written notice indicating that the request is too ambiguous and seeking clarification or amendment of the request by the person making the request. Any clarification or amendment of the request in response to such a notice shall be considered a new written request.
 - f. The response to a written request shall include the website link to the ACSET FOIA Procedure and the Public Summary of the ACSET FOIA Procedure.
3. A person may request that a public record be provided in non-paper physical media, e-mailed or otherwise provided to him or her in digital form in lieu of

paper copies. The FOIA Coordinator will only comply with such a request if ACSET possesses the necessary technological capability to provide the records in the requested non-paper physical media. In order to protect the integrity of its information systems, ACSET will procure any such records in non-paper media and will not accept non-paper physical media from a party making a request for a public record.

4. A written request made by facsimile, electronic mail, or other electronic transmission is deemed to have been received one (1) business day after its transmission. If a request is sent by e-mail and is delivered to ACSET's spam, clutter, or junk mail folder, it shall not be deemed to have been received until one day after the FOIA Coordinator becomes aware of the request. The FOIA Coordinator shall note both the date that the request was delivered to the spam, clutter, or junk mail folder and the date that the FOIA Coordinator became aware of the request.
5. A failure to respond to a written request within the time provided by the FOIA and this policy constitutes the public body's final determination to deny the request only if:
 - a. The failure to respond was willful and intentional; or
 - b. The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, e-mail or e-mail attachment, or the envelope, or subject line of the e-mail, letter, or facsimile specifically included the words, characters or abbreviations for "freedom of information", "FOIA", "copy", or a recognizable misspelling of such, or legal code reference to the FOIA.
6. If a public record contains material which is not exempt under the FOIA, as well as material which is exempt, the FOIA Coordinator shall separate the exempt and nonexempt material by redaction and make the nonexempt material available for examination and copying.
7. The FOIA Coordinator shall maintain a copy of all written requests for public records on file for no less than one (1) year from the date of the request.
8. Unless the public record is exempt from disclosure according to section 13 of the FOIA, upon submitting a written request to the FOIA Coordinator which describes the public record sufficiently to enable the FOIA Coordinator to find it, a person has a right to inspect, copy, or receive copies of the requested public record. ACSET shall furnish a requesting person a reasonable opportunity for the inspection and examination of public records, and shall furnish reasonable facilities for making memoranda or abstracts from its public records available during regular business hours at times mutually agreeable to the person and ACSET. The FOIA Coordinator may make reasonable rules necessary to protect the integrity of its public records from loss, alteration, damage or destruction and

to prevent excessive and unreasonable interference with the discharge of its functions.

9. A person has the right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription shall be valid for up to six (6) months, at the request of the subscriber, and shall be renewable.
10. The FOIA does not require a public body to make a compilation, summary, or report of information, nor does it require a public body to create a new public record.
11. The FOIA Coordinator will make this policy and the written public summary thereof available to the public without charge, and this policy and the written public summary thereof will be posted on ACSET's website(s).

C. Denial of Requests and Appeal

1. A written notice denying a request for a public record, in whole or in part, is a final determination to deny the request or portion thereof. The written notice shall contain:
 - a. An explanation of the basis under the FOIA or other statute for the determination that the public record, or portion thereof, is exempt from disclosure, if that is the reason for denying all or a portion of the request.
 - b. A certificate that the public record does not exist under the name given by the requesting party or by another name reasonably known to ACSET, if that is the reason for denying all or a portion of the request.
 - c. A general description of a public record or information on a public record which is separated or redacted pursuant to section III. B. 6 that does not divulge the content of the redacted material, if such a separation or redaction is made.
 - d. A full explanation of the requesting person's right to do either of the following:
 - (i) File a written appeal with the head of the public body, which specifically states the word "appeal" and identifies the reason or reasons for the reversal of the denial; or
 - (ii) Seek judicial review of the denial under section 10 of the FOIA by commencing an action in circuit court to compel the disclosure of the public record. An action for judicial review must be commenced within 180 days after the public body's final determination to deny the request. The notice must also describe the right to receive attorney's

fees and damages as provided by section 10 of the FOIA if, after judicial review, the circuit court determines that the public body has not complied with the FOIA and orders disclosure of all or a portion of a public record.

2. If a person believes that the fee, including a deposit, charged by ACSET for responding to his or her written request under the FOIA exceeds the amount permitted by this policy, he or she must first file a written appeal with the head of the public body from which he or she requested the public record(s) requesting a reduction or elimination of the fee. The appeal must specifically include the word “appeal” and identify how the fee charged by ACSET exceeds the amount permitted.
3. If the person files an appeal with the public body, a board or commission which is the head of a public body is not considered to have received a written appeal under section III.C.1.d.(ii) or III.C.2 until the first regularly scheduled meeting of that board or commission following submission of the written appeal. If the head of the public body fails to respond to a written appeal within the time permitted, or if the head of the public body upholds all or a portion of the disclosure denial, or upholds the fee or any portion thereof, the requesting person may seek judicial review of the nondisclosure or allegedly excessive fee by commencing an action in circuit court. Appeals to the heads of the public bodies described in section II.E shall be responded to by the following:
 - a. ACSET - Chairperson of the Governing Board.
 - b. Workforce Development Board – The Chairperson of the Workforce Development Board.
4. Within ten (10) business days after receiving an appeal concerning a nondisclosure of information in response to a written request, the appropriate person described in section III.C.3 shall respond in writing by doing one of the following:
 - a. Reversing the disclosure denial.
 - b. Upholding the disclosure denial.
 - c. Reversing the disclosure denial in part and upholding the disclosure denial in part.

Under unusual circumstances, issue a notice extending for not more than ten (10) business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

5. Within ten (10) business days of receiving an appeal concerning an allegedly excessive fee for processing a written request, the appropriate person described in section III.C.3 will respond in writing by doing one of the following:
 - a. Waiving the fee.
 - b. Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and the FOIA.
 - c. Upholding the fee and issuing a written determination that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and the FOIA.
 - d. Issuing a notice detailing the unusual circumstances for extending for not more than ten (10) business days the period during which the response will be issued. No more than one notice of extension may be issued for a particular written appeal.
6. If a requesting party is dissatisfied with the decision of the Public Body described in subsection 5, he or she may file an action in circuit court for a reduction of the fee. Any such action must be filed within 45 days of the requesting party's receipt of the decision of the public body. If a requesting party files an action in circuit court for a reduction of fees, the public body is not obligated to complete the processing of the written request until the court resolves the fee dispute.

IV. Fees.

ACSET will charge fees for responding to written requests for public records as authorized by the FOIA. The FOIA Coordinator will provide a requesting party with an itemized statement of these fees using the "ACSET FOIA Fee Itemization Form" statement attached hereto. These fees will consist of the following components:

A. Copying and Duplication.

1. The costs of copying and duplication include making paper copies, digital copies or transferring digital public records to non-paper physical media or through the Internet.
2. The costs of paper copies will be based upon the following factors:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) paper will not exceed \$.10 per sheet, as determined by ACSET.
 - Copies made on non-standard size sheets will reflect the actual cost of reproduction, as determined by ACSET.
 - ACSET will utilize the most economical means available for making paper copies of public records, including use of double-sided printing, if it is cost-saving and available.
3. If ACSET provides public records on non-paper physical media, ACSET shall charge the actual and most reasonably economic cost of computer discs, computer tapes, or other digital or similar media.

B. Mailing.

1. The cost to mail records to a requesting party will reflect the actual cost thereof using a reasonably economical and justified means.
2. ACSET may charge for the least expensive form of delivery confirmation.
3. ACSET will not charge for expedited shipping or insurance unless specified by the requesting party.

C. Labor.

1. ACSET will charge for the cost of labor associated with duplication or publication of requested public records.
 - a. This cost shall be charged at the hourly wage, plus a multiplier not to exceed 50% thereof, to also cover the actual costs of fringe benefits, paid to the lowest paid employee capable of performing these tasks, regardless of whether that individual actually performed the tasks.
 - b. This cost will be charged in increments of 15 minutes, provided that there will be no charge for labor if the total time required for this task is less than 15 minutes. All partial time increments shall be rounded down.
 - c. Charges for overtime shall not be included unless overtime is specifically stipulated by the requesting party.
2. ACSET will not charge for the costs of labor for searching for, locating and examining a public record and the deletion of exempt from non-exempt material in the record unless failure to do so will result in unreasonably high costs to ACSET, and the FOIA Coordinator specifically identifies the nature of the unreasonably high costs. The determination of whether the response to a particular request will result in unreasonably high costs will be made by the FOIA Coordinator on a case-by-case basis, and the FOIA Coordinator will make this determination by comparing each

- request to other written FOIA requests ordinarily received by ACSET. The FOIA Coordinator will also determine whether the cost of responding to a particular written request is unreasonably high by considering the following factors:
- a. The volume of public records requested;
 - b. Amount of time spent to search for, examine, review and separate exempt from non-exempt material in the public record(s);
 - c. Whether the public records are located at more than one of ACSET's offices;
 - d. The staff available to respond to the request; and
 - e. Any other similar factors identified by the FOIA Coordinator relevant to responding to a particular written request.
3. If the FOIA Coordinator determines that ACSET will incur unreasonably high costs unless it does charge for the cost of labor for searching for, locating and examining a public record and the deletion of exempt from nonexempt material in the record, the costs of such labor shall be calculated as follows:
- a. This cost shall be charged at the hourly wage, plus a multiplier not to exceed 50% thereof, to also cover the actual costs of fringe benefits, paid to the lowest paid employee capable of performing these tasks, regardless of whether that individual actually performed the tasks.
 - b. This cost will be charged in increments of 15 minutes. All partial time increments shall be rounded down.
 - c. Charges for overtime shall not be included unless overtime is specifically stipulated by the requesting party.
4. In the event that the FOIA Coordinator determines that ACSET does not employ a person capable of separating and deleting exempt from non-exempt information with respect to a particular request, ACSET may include the costs of contracted labor to perform these tasks in the same manner as labor of its employees if it clearly indicates the name of the contracted person or firm in its ACSET FOIA Fee Itemization Form. Total labor costs under this subsection shall not exceed 6 times the State minimum hourly wage.
5. ACSET will not charge a fee for labor directly associated with redaction of exempt material, under Section IV, if the FIOA Coordinator knows, or has reason to know, that a redacted version of the public record exists and is still in possession of ACSET.
6. If ACSET fails to respond to a written request within the time required by Section B.2 of Article III, ACSET will:

- a. Reduce the cost of labor included in any fee by 5% for each day by which ACSET exceeds the time permitted for response, up to a reduction of not more than 50%, if any of the following applies:
 - i. ACSET's response was willful and intentional;
 - ii. The written request conveyed a request for information within the first 250 words of the body of a letter, facsimile, e-mail or e-mail attachment; or
 - iii. The written request specifically included the words, characters, or abbreviations for "freedom of information," information," "FOIA," "copy," or recognizable misspellings thereof, or a legal code reference to the FOIA on the front of an envelope, or in the subject line of an e-mail, letter or facsimile cover page.
 - b. Fully note the charge reduction on the ACSET FOIA Fee Itemization Form.
- 7. If all or a portion of the public records that are requested in a written request are available on ACSET's website:
 - a. The FOIA Coordinator will notify the requesting party in writing of that fact, which notification will indicate the specific webpage address at which they may be located.
 - b. The written notification will also include a detailed itemization of the estimated cost to the requesting party if he or she chooses to have ACSET provide the public records that are available on the Internet in paper or, if requested, non-paper physical media.
 - c. If, after having received such notification, the requesting party requests that those public records be provided in paper or non-paper physical media, ACSET may charge the requesting party the actual cost of providing such documents, including the cost of labor calculated at the hourly wage of the lowest paid employee capable of providing the public record, together with the actual cost of fringe benefits paid to that employee, without the 50% limit on the multiplier described in Sections C.1 and C.3.

D. Deposits

- 1. The FOIA Coordinator will make a good faith estimate of the fees that ACSET will charge a party for fulfilling a written request for a public record(s) and, if the estimated fee exceeds \$50.00, the FOIA Coordinator may, in the initial or subsequent response to the written request, require that the requesting party provide ACSET a deposit not to exceed 50% of the estimated fee.
- 2. If the FOIA Coordinator requires a deposit pursuant to this section, he or she shall also provide the requesting party with a detailed itemization of the estimated costs on the ACSET FOIA Fee Itemization Form, together with a best efforts estimate of the time in which the FOIA Coordinator will be able to comply with the written request.

The estimate of the time required to comply with the written request shall not be binding upon ACSET, but the FOIA Coordinator shall provide such estimate in good faith, given the nature of the request in the particular instance, and shall strive to comply with the written request pursuant to the policy of ACSET indicated in Article I of this policy.

3. The FOIA Coordinator may require that a requesting party pay a deposit of 100% of the estimated fee for complying with the written request prior to searching for any public records pursuant to the current written request if ACSET had fulfilled the prior written request and:
 - a. The requesting party has not paid ACSET in full for fees incurred by ACSET for responding to a prior written request;
 - b. The final fee for responding to the written request did not exceed 105% of the estimated fee;
 - c. The public record(s) made available to the requesting party pursuant to the previous request contained the information sought in the prior written request and are still in the possession of ACSET;
 - d. The public records were made available to the requesting party, subject to payment, within the time estimated by the FOIA Coordinator;
 - e. Ninety (90) days have passed since ACSET notified the requesting party in writing that the records were available;
 - f. The requesting party is unable to show proof of the prior payment to ACSET; and
 - g. ACSET calculates a detailed itemization of costs, on the ACSET FOIA Fee Itemization Form that is the basis for the increased fee deposit for the current written request.

However, the FOIA Coordinator may not require a deposit of 100% of estimated fees if:

- a. The requesting party can show proof of payment in full of fees for ACSET's response to the prior written request;
- b. ACSET is subsequently paid in full for fees for responding to the prior written request; or
- c. Three hundred and sixty-five (365) days have passed since the requesting party had made the prior written request for which ACSET's fees had not been paid in full.

E. Waiver or Discount of Fees.

1. Any or all of the above costs incurred by ACSET for responding to a written request may be waived by the FOIA Coordinator if the FOIA Coordinator determines, in his or her sole judgment, that such waiver or reduction is in the public interest because responding to the written request primarily benefits the public.
2. The FOIA Coordinator will waive the first \$20.00 of a fee for responding to a written request if the person submitting the request submits an affidavit stating that
 - a. He or she is indigent and receiving specific public assistance or, if not receiving public assistance, indicating facts demonstrating his or her inability to pay because of indigence; and
 - b. He or she is not making the written request in conjunction with another party or parties who are offering or providing payment to make the request.
3. If a requesting party is eligible for a discount on the basis of indigency, the FOIA Coordinator shall note the discount on the ACSET FOIA Fee Itemization Form. If a requesting party is ineligible for a requested discount, the FOIA Coordinator shall specifically inform him or her of the reason in the written response to his or her written request. A person is ineligible for this discount if he or she has previously received discounted copies of public records from the same public body twice during that calendar year.
4. The FOIA Coordinator will also waive the first \$20.00 of a fee for responding to a written request from a nonprofit organization 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, P. L. 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, P. L. 99-339, or their successors, if the written request:
 - a. Is made directly on behalf of the organization or its clients;
 - b. Is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, and
 - c. Is accompanied by documentation of its designation by the State.

ACSET
FOIA Fee Itemization Form
(Effective May 23, 2016)

Component	Cost Calculations	Total
1. Labor Costs -Search, Location and Examination of Records*	<p>Enter the hourly wage of lowest paid employee capable of performing the search, location and examination \$ ____ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor requests the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)</p> <p>____%</p> <p>Multiply the hourly wage times the fringe benefit multiplier \$__ x __ % = \$____</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) \$____ + ____ = \$____</p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment \$____ /4 = \$____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate ____ x \$____ = \$____</p>	\$____
2. Employee Labor Costs-Redaction	<p>If performed by ACSET's employee: Enter the hourly wage of lowest paid employee capable of performing redaction \$ ____ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor requests the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)</p> <p>____%</p> <p>Multiply the hourly wage times the fringe benefit multiplier \$____ x ____ % = \$____</p>	

	<p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs)</p> <p>\$ ____ + ____ = \$ ____</p> <p>Divide the resulting hourly wage by four (4) to determine the charge per fifteen (15) minute increment</p> <p>\$ ____ / 4 = \$ ____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p>____ x \$ ____ = \$ ____</p>	\$ ____
2. Contracted Labor Costs-Redaction	<p>If performed by Contracted Labor (Only permitted if ACSET does not employ a person capable of redacting the records as determined by the FOIA Coordinator):</p> <p>Name of person or firm contracted:</p> <p>_____</p> <p>Enter the hourly rate charged by the contractor (may not exceed six (6) times the State minimum wage (i.e. \$8.50 x 6=\$51.00)</p> <p>\$ ____ per hour</p> <p>Divide the hourly rate by four (4) to determine the charge per fifteen (15) minute increment</p> <p>\$ ____ / 4 = \$ ____</p>	
	<p>Number of 15 minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p>____ x \$ ____ = \$ ____</p>	\$ ____
3. Non-Paper Physical Media	<p>Actual and most reasonably economical cost of:</p> <p>Flash drives \$ ____ x number used ____ = \$ ____</p> <p>Computer disks \$ ____ x number used ____ = \$ ____</p> <p>Other media \$ ____ x number used ____ = \$ ____</p>	\$ ____

4. Paper copies	<p>Actual total incremental cost of duplication (not including labor) up to a maximum of 10 cents per page:</p> <p>Letter paper (8 ½ x 11") number of sheets ____ x \$0. ____ = \$ ____</p> <p>Legal paper (8 ½ x 14") number of sheets ____ x \$0. ____ = \$ ____</p> <p>Actual cost of other types of paper: number of sheets ____ x \$0. ____ = \$ ____</p> <p>Type of paper: number of sheets ____ x \$0. ____ = \$ ____</p> <p>(NOTE: Must print double-sided if available and costs less.)</p>	\$ _____
5. Labor cost -Duplication Copying and transferring records to non-paper physical media **	<p>Enter the hourly wage of lowest paid employee capable of performing the search, location and examination \$ ____ per hour</p> <p>Multiply the wage by the fringe benefit multiplier (maximum of 50% of the hourly wage); OR, if the requested information is available online and the requestor requests the documents to be provided in another format, the fringe benefit multiplier may exceed 50% (not to exceed actual cost)</p> <p>____ %</p> <p>Multiply the hourly wage times the fringe benefit multiplier \$ ____ x ____ % = \$ _____</p> <p>If stipulated by the requestor, add the hourly overtime wage increment (but do not include in the calculation of fringe benefit costs) \$ ____ + ____ = \$ ____</p> <p>Divide the resulting hourly wage by ____ to determine the charge per <u>fifteen</u> (<u>15</u>) minute increment \$ _____</p> <p>(NOTE: May use any time increment for this category)</p>	
	<p>Number of ____ minute increments (partial time increments must be rounded down) multiplied by the permitted rate</p> <p>____ x \$ ____ = \$ ____</p>	\$ _____

6. Mailing	<p>Actual cost of mailing records in a reasonable and economical manner: Cost of mailing: \$ ____</p> <p>Cost of least expensive form of postal delivery confirmation: \$ ____</p> <p>Cost of expedited shipping or insurance only if specifically stipulated by the requestor: \$ ____</p>	\$ _____
	Subtotal	\$ _____
Waivers and Reductions	<p>Subtract any Fee Waiver or Reduction: \$20.00 for indigency or nonprofit organization as further described in the Public Body's procedures and guidelines.</p> <p>Any amount determined by the Public Body due to the search and furnishing of the Public Record determined to be in the public interest. \$ _____</p> <p>The reduction amount due to the late response of the Public Body. 5% of fee x ____ days late = ____ % reduction (maximum reduction is 50%)</p>	- \$ _____
Deposit	Subtract any good-faith deposit received: \$ ____	-\$ _____
	Total Due***	\$ _____

*Note: Labor costs for **search, location, examination and redaction** (categories 1 and 2 on the itemization form) may not be charged unless the failure to charge would result in unreasonably high costs to the public body because of the nature of the request in the particular instance and the public body specifically identifies the nature of these unreasonably high costs. In this instance, the FOIA Coordinator identifies the following as resulting in unreasonably high costs to ACSET:

ACSET will accept a check, cash, cashier's check, or money order. Please make check or money order payable to "**ACSET**." Send to FOIA Coordinator, 1550 Leonard NE, Grand Rapids, MI 49505.

****Labor costs involving duplication and mailing will be charged if complying with the request requires fifteen (15) minutes or more of staff time to complete.**

APPEAL EXCESSIVE FEE:

If a fee charged or deposit required by ACSET exceeds the amount allowed by these guidelines or the FOIA, you must **first** file a written appeal with the head of the Public Body from who you sought the record. This appeal must specifically state the word "appeal" and indicate how the fee or deposit charged exceeds the permitted amount.

The appeal will not be considered to have been received until the next meeting of the board of the Public Body to which you are making the appeal. Within 10 business days of receiving the appeal, the chairperson of the Public Body to whom you submitted the written request will respond in writing by:

- a. Waiving the fee.
- b. Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee.
- c. Upholding the fee and issuing a written determination that supports the required fee.
- d. Issuing a notice detailing the unusual circumstances for extending for not more than ten (10) business days the period during which the response will be issued. No more than one notice of extension may be issued for a particular written appeal.

If you are still dissatisfied with the decision of the Public Body, you may file a civil action in Kent County Circuit Court. This action must be filed within **45 days** of when you receive the decision from the Chairperson of the Public Body.

AREA COMMUNITY SERVICES EMPLOYMENT AND TRAINING COUNCIL (ACSET) PUBLIC SUMMARY OF FOIA PROCEDURE

ACSET is a consortium of Allegan, Barry, Ionia, Kent, Montcalm, Muskegon and Ottawa Counties and the City of Grand Rapids that serves as the Michigan Works! Agency and administers employment and training programs for that area. ACSET is the custodian of the record for ACSET's Governing Board and the West Michigan Works Workforce Development Board.

The FOIA stands for the Michigan Freedom of Information Act. It is the policy of ACSET that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the decision-making process of ACSET and its associated bodies, and the official acts of its public officials and employees, consistent with the FOIA. This summary is an explanation of ACSET's FOIA Policy and it is available, together with the full ACSET FOIA Policy, at www.westmiworks.org.

1. How do I Submit a FOIA Request to ACSET?

- A FOIA request may be submitted in person, by ordinary mail, or by fax or e-mail. If submitted in person or ordinary mail, it must be in writing. However, if the information you are seeking is available on ACSET's website, an ACSET employee who receives a verbal request will try, if practicable and to the best of his or her knowledge, to advise you of the website address of the information.
- Written requests may be delivered to the ACSET FOIA Coordinator, 1550 Leonard NE, Grand Rapids MI 49505, or they may be e-mailed to twright@westmiworks.org. The fax number at that address is (616) 336-4118.
- While it isn't required that you use the term "freedom of information" or "FOIA" in your request, it is recommended that you do so on the envelope or in the first line of your letter, or, if you submit your request electronically, in the subject line of your e-mail or on the cover page of your fax, in order to ensure a prompt response. You must also provide your contact information in your request.
- The FOIA request must describe the public record sufficiently in order for the ACSET FOIA Coordinator to locate it. ACSET isn't required to create a new document, compile or summarize information, or create a report in response to an FOIA request.

2. What Response Should I Expect to Receive?

- Within five business days after ACSET's receipt of your written request, the FOIA Coordinator will:
 - ✓ Grant the request;
 - ✓ Issue a written notice denying the request;
 - ✓ Grant the request in part and issue a written notice denying the request in part;
 - ✓ Issue a written notice extending the period for responding to the request for another ten (10) business days; or

- ✓ Issue a written notice indicating that your request failed to adequately identify the record(s) that you are seeking and asking that you clarify your request. Any written response that you provide to this notice will be considered a new FOIA request.
- ACSET receives a FOIA request on the day that it is delivered, except that the FOIA provides that a request sent by e-mail or fax is received one (1) business day after it was sent. If a request sent by e-mail isn't readily identifiable as a FOIA request (because, for example, it lacked a reference to FOIA in the subject line) and, as a result, is directed to ACSET's spam, clutter, or junk mail folder, the FOIA provides that the request is considered to be received one (1) business day after ACSET first becomes aware of it.
- If any of the records are available on ACSET's website, the FOIA Coordinator will advise you of the website address where they can be found in his or her written response to your request. You may still require that ACSET provide you with copies of those records, but you must reimburse ACSET for the cost of making such copies in addition to reimbursing the cost, if any, incurred in mailing the copies.
- You may inspect any record(s) made available by ACSET in response to your request at ACSET's business office during normal business hours, at times mutually agreeable to you and ACSET. If a document includes both exempt and non-exempt information, you will only be able to inspect a copy thereof with the exempt information redacted (blocked out). You will not be allowed to remove original records from the premises, and you may inspect such records only in the presence of an ACSET employee.
- If you request, ACSET will provide copies of the record(s) you seek in non-paper media, such as flash drives or discs, or through e-mail, but only if ACSET has the technological capability of doing so.
- If your request is granted, in whole or in part, and you wish ACSET to provide copies of the documents, you will be required to pay costs incurred by ACSET in responding to your request, which are explained on pages 3-5, before ACSET makes the record(s) available to you. If the estimated costs of complying with your request exceed \$50.00, or if you haven't paid ACSET in full for a prior FOIA request, ACSET will require a deposit and/or payment in full before it processes your request.
- If ACSET denies your request, or any portion thereof, in its written response, it will
 - ✓ Explain why the information is exempt from disclosure, if that is the reason for denial;
 - ✓ Certify that the public record doesn't exist by the name you provided, or any other name known to ACSET, if that is the reason for denial;
 - ✓ Provide a general description of any exempt material that was redacted, without revealing the content of the exempt material;
 - ✓ Explain your right to appeal the denial, or partial denial, of your request, and your right to receive damages and attorney fees, if you file your appeal in

civil court and the court determines that ACSET has not complied with the FOIA and orders disclosure of all or a portion of a public record.

- ACSET's failure to respond within the time indicated above will not constitute a final determination on your request unless:
 - c. The failure to respond was willful and intentional; or
 - d. Your written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, e-mail or e-mail attachment, or the envelope, or subject line of the e-mail, letter, or facsimile specifically included the words, characters or abbreviations for "freedom of information", "FOIA", "copy", or a recognizable misspelling of such, or legal code reference to the FOIA.

In that case, you couldn't appeal the failure to respond, but would need to submit another written request that included the elements described above.

3. What fees may ACSET charge for responding to a written request for a record(s) under the FOIA?

The FOIA allows ACSET to charge fees for providing an individual with copies of public records requested by that individual. These fees fall in the following components:

- Copying and duplication;
- Mailing; and
- Labor

A. Copying and Duplication

This component includes making paper copies, digital copies or transferring digital public records to non-paper physical media (such as flash drives or discs) or through the Internet.

- The costs of paper copies made on standard letter (8 ½" x 11") or legal (8 ½" x 14"), will not exceed \$.10 per page, and will be indicated on the ACSET FOIA Fee Itemization form. This cost will be determined by the ACSET.
- The cost of non-standard sheets will reflect the actual cost of reproduction, as determined by the ACSET.
- Double-sided copies will be provided, if economical and available.
- If records are provided on non-paper media pursuant to your request, and ACSET has the technological capability to do so, ACSET will charge the actual and most economical cost thereof.

B. Mailing

ACSET will charge you for the actual cost of reasonably economical and justified mailing, if copies are mailed to you. ACSET will also charge for the least expensive

form of delivery confirmation, and there will be no charge for insurance or expedited shipping of copies, except at your request.

C. Labor

ACSET may charge you for the cost of labor involved in:

- copying and duplication of records;
- searching for, locating and examining records; and
- deleting (redacting) exempt from non-exempt material in records.

However, ACSET will not charge you for the cost of labor involved in

- searching for, locating and examining records; and
- redacting exempt from non-exempt material in records.

unless failing to do so would result in unreasonably high costs to ACSET. The FOIA Coordinator will identify these unreasonably high costs to you in his or her written response. The FOIA Coordinator will decide, on a case-by-case basis, whether responding to a request for documents would result in unreasonably high costs, because of the nature of the request. Each FOIA request will be compared with other FOIA requests ordinarily received by ACSET.

ACSET will calculate the costs of labor charged for responding to a FOIA request on the following basis:

- The cost will be based upon the hourly rate paid to the lowest paid employee who is capable of performing the task involved, regardless of whether that employee actually performs the task.
- This rate will be increased by a multiplier, not to exceed 50%, to account for the actual cost of fringe benefits paid to that employee.
- If, after you are advised that the documents you seek are available on ACSET's website and you are provided with the webpage address where they may be found and the estimated cost of providing you with copies, you still want ACSET to provide you with the copies, the cost of labor involved in making copies will be calculated in the same way described above, except that the fringe benefit multiplier applied to the wage for that employee may exceed 50%.
- Labor costs are charged in 15-minute increments and partial increments are rounded down. However, there is no charge for copying and duplication of records if that takes less than 15 minutes.
- Overtime wages won't be included in labor costs unless you agree to it, and overtime wages won't include the cost of fringe benefits.
- If the FOIA Coordinator doesn't respond to your initial request in the time indicated in Question 2, the cost that ACSET is allowed to charge for labor will be reduced by 5% for each day that the response is late, up to a maximum of 50%, under some circumstances.

4. May ACSET waive these fees in some cases?

ACSET may waive some or all of the fees involved in responding to a FOIA request if:

- The FOIA Coordinator decides that a waiver is in the public interest because responding to the request would primarily benefit the public;
- The person who submits the request is indigent; or
- The request is submitted by a nonprofit corporation designated by the State to carry out activities under Subtitle C of the Developmental Disabilities Act and the Protection and Advocacy for Individuals with Mental Illness Act, if the request is made on behalf of itself or its clients, consistent with the Michigan Mental Health Code.

ACSET will waive the first \$20.00 of the fee described in question 3 if the person who submits the FOIA request also provides an affidavit that indicates that:

- He or she is indigent and is receiving specific public assistance, or if not receiving public assistance, indicates facts showing his or her inability to pay because of indigence; and
- A third party hasn't paid or promised to pay the requesting party to submit the FOIA request.

No one may qualify for a waiver because of indigency more than twice in the same calendar year.

5. May ACSET require the payment of a deposit prior to responding to an FOIA request?

If the FOIA Coordinator estimates, in good faith, that the cost of responding to the request will exceed \$50.00, he or she may require that you pay a deposit prior to processing the request. He or she will provide you with a written estimate on an ACSET FOIA Fee Itemization form. The estimate of the time required will be a good faith estimate that the FOIA Coordinator will strive to meet, but it is not legally binding on ACSET. The deposit will not exceed 50% of the estimated fee for processing the request.

However, if you have not paid ACSET in full for a previous FOIA request, the FOIA Coordinator may require that you pay 100% of the estimated cost of responding to the current request if:

- The final fee for processing the prior request didn't exceed 105% of the estimated fee;
- The records that ACSET made available pursuant to the prior request contained the information requested and are still in ACSET's possession;
- The records were made available to you, subject to payment, within the estimated time frame;
- 90 days have passed since ACSET notified you that the records were available for pickup or mailing;
- You are unable to provide proof of payment in full; and

- The FOIA Coordinator provided you with an itemized statement of the estimate that is the basis for the increased deposit.

The FOIA Coordinator may not require you to pay an increased deposit if

- You show proof of payment in full of the prior charges;
- You pay the prior charges in full; or
- 365 days have passed since you made the prior FOIA request for which charges remain unpaid.

6. How do I appeal the denial of a FOIA request for a public record(s)?

If you feel that the ACSET has improperly denied your written request for a public record or records, or portions thereof, , you may **either**

- File a written appeal with the head of the Public Body from who you sought the record. This appeal must specifically state the word “appeal” and indicate the reason(s) why you feel the denial should be reversed. You must file the appeal at the address indicated on the written response that denied the record(s) you requested.
- The appeal will not be considered to have been received until the next meeting of the board of the Public Body to which you are making the appeal. Within 10 business days of that date, the chairperson of the board of the Public Body will respond in writing by
 - ✓ Reversing the denial of disclosure;
 - ✓ Upholding the denial of disclosure;
 - ✓ Reversing the denial of disclosure in part and upholding it in part; or
 - ✓ Issuing a notice detailing the unusual circumstances for extending for not more than ten (10) business days the period during which the response will be issued. No more than one notice of extension may be issued for a particular written appeal.

OR

Instead of filing an appeal with ACSET or one of its associated Public Bodies, you may file a civil action in Kent County Circuit Court. This action must be filed within **180 days** of the final determination denying you the public record(s), or portion thereof, that you requested in writing.

7. How do I appeal an excessive fee charged by ACSET for responding to a FOIA request?

If you feel that a fee charged or deposit required by ACSET exceeds the amount allowed by these guidelines or the FOIA, you must **first** file a written appeal with the head of the Public Body from who you sought the record. This appeal must specifically state the word “appeal” and indicate how the fee or deposit charged exceeds the permitted amount.

The appeal will not be considered to have been received until the next meeting of the board of the Public Body to which you are making the appeal. Within 10 business days of receiving the appeal, the chairperson of the Public Body to whom you submitted the written request will respond in writing by:

- e. Waiving the fee.
- f. Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee.
- g. Upholding the fee and issuing a written determination that supports the required fee.
- h. Issuing a notice detailing the unusual circumstances for extending for not more than ten (10) business days the period during which the response will be issued. No more than one notice of extension may be issued for a particular written appeal.

If you are still dissatisfied with the decision of the Public Body, you may file a civil action in Kent County Circuit Court. This action must be filed within **45 days** of when you receive the decision from the Chairperson of the Public Body.

This is only a summary of the ACSET FIOA Policy. The entire policy is available at www.westmiworks.org and www.communityactionkent.org. If there is any inconsistency between this summary and the ACSET FOIA Policy, the ACSET FOIA Policy is controlling. If you have any questions, you may contact the ACSET FOIA Coordinator at the address indicated on page 1 of this Summary or (616) 336-4132.