



## Public Summary of OnPoint 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. The people shall be informed so that they may fully participate in the democratic process.

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, as amended, the following is the Written Public Summary of OnPoint's FOIA Policy and Guidelines relevant to the general public.

**This is only a summary** of OnPoint's FOIA Policy and Guidelines. For more details and information, copies of OnPoint's FOIA Policy and Guidelines ~~and~~ are available at no charge at OnPoint's office 540 Jenner Dr, Allegan, MI 49010 and are also on the agency website at: [Resources & Forms – OnPoint](#)

### 1. How do I submit a FOIA request to OnPoint?

- A request must sufficiently describe a public record so as to enable OnPoint to find it.
- A request must include the requesting person's complete name, address, and valid telephone number or email address, unless the individual qualifies as indigent per Michigan FOIA.
  - If the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent must be provided.
  - An address must be written in compliance with United States Postal Service addressing standards.
- Please include the words "FOIA" or "FOIA Request" in the request to assist OnPoint in providing a prompt response.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed, or retained by OnPoint may be submitted on OnPoint's *FOIA Request for Public Record Form*, or in any other form of writing (letter, fax, email, etc.).
- No specific form to submit a written request is required. However, a *FOIA Request for Public Record Form* and other FOIA-related forms are available for your use and convenience on OnPoint's website at [Resources & Forms – OnPoint](#)
- Written requests may be delivered to OnPoint in person or my mail to FOIA Coordination, OnPoint, 540 Jenner Drive, Allegan, MI 49010.
- Requests may be faxed to (269)673-2738 or emailed to [FOIA@onpointallegan.org](mailto:FOIA@onpointallegan.org). To ensure proper response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.

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

- A person making a request may stipulate that OnPoint's response be electronically mailed (e-mail), delivered by facsimile, or delivered by first-class mail.
- Within 5 business days after receiving a FOIA request OnPoint 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. OnPoint 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 OnPoint needs an additional 10 business days to respond, or for a total of 15 business days. Only one such extension is permitted.
  - Issue a written notice indicating that the public record requested is available at no charge on OnPoint's website at [www.onpointallegan.com](http://www.onpointallegan.com).
- If the request is granted, or granted in part, a best-efforts estimate will be provided as to how long it will take OnPoint to provide the records to the requestor. The best-efforts estimate shall be nonbinding on OnPoint but will be made in good faith and will strive to provide the requested records in a manner based on this state's public policy of FOIA.
- If the request is granted, or granted in part, OnPoint 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, OnPoint will require a deposit before processing the request.

## 3. What are OnPoint's fee deposit requirements?

- If OnPoint has made a good faith calculation that the total fee for processing the request will exceed \$50.00, OnPoint will require that you provide a deposit in the amount of 50% of the total estimated fee. When OnPoint 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 OnPoint of your deposit.
- If OnPoint receives a request from a person who has not paid OnPoint for copies of public records made in fulfillment of a previously granted written request, OnPoint 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 OnPoint's possession.
  - The public records were made available to the individual, subject to payment, within the best-efforts time frame estimated by OnPoint to provide the records;
  - 90 days have passed since OnPoint 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 OnPoint; and

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

#### 4. How does OnPoint calculate FOIA processing fees?

The Michigan FOIA statute permits OnPoint 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 OnPoint.
- 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 OnPoint.
- 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 OnPoint's website if you ask OnPoint to make copies.
- The actual and most reasonably economical cost of non-paper physical media (computer discs, computer tapes or similar media) if you ask OnPoint to make copies.
- The cost to mail or send a public record to a requestor.
- OnPoint will use a standard form for detailed itemization of any fee amount in its responses to written requests under the FOIA. OnPoint's *FOIA Detailed Cost Itemization Form* is available at: [Resources & Forms – OnPoint](#)

#### Labor Costs

- All labor costs will be estimated and charged in 15-minute increments with all partial time increments rounded down. If the time involved is less than 15-minutes, there will be no charge.
- Labor costs will be charged at the hourly wage of the lowest-paid OnPoint employee capable of doing the work in the specific fee category, regardless of who actually performs the work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. OnPoint may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate fringe benefit cost.
- Contracted labor costs may not exceed an amount 6 times the state minimum hourly wage.

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 OnPoint. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to OnPoint's usual FOIA requests, because of the nature of the request in the particular instance. OnPoint must specifically identify the nature of the unreasonably high costs in writing.

### **Copying, Duplication and Mailing Costs**

OnPoint 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 OnPoint 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 of paper will reflect the actual cost of reproduction.
- **Mailing Costs**
  - The cost to mail public records will use a reasonably economical and justified means.
  - OnPoint 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. OnPoint Board Chairperson may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

### **Financial Need discount**

- OnPoint 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 financial need.
- You are **not** eligible to receive the \$20.00 waiver if you:

- have previously received discounted copies of public records from OnPoint 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, OnPoint has provided a *FOIA Affidavit of Financial Need Form* for the waiver of FOIA fees, which is available at [www.onpointallegan.org](http://www.onpointallegan.org).

**6. May a nonprofit organization receive a discount on the fee?**

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is formally designated by the state to carry out activities under subtitle C of the federal 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, may receive a \$20.00 discount if the request meets all of the following requirements in the Act:

- Is made directly on behalf of the organization or its clients.
- 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.
- Is accompanied by documentation of its designation by the state, if requested by the public body.

**7. 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 OnPoint Board Chairperson.

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 OnPoint *FOIA Appeal of Denial Form*, is available on OnPoint’s at [Resources & Forms – OnPoint](#)

Within 10 business days of receiving the appeal the OnPoint Board Chairperson ~~of Directors~~ will respond in writing by:

- Reversing the disclosure denial;  
Upholding the disclosure denial; or
- Reversing the disclosure denial in part and upholding the disclosure denial in part.
- Under unusual circumstances, OnPoint may issue a notice of extension for not more than 10 business days to respond to the appeal.

Whether or not you submitted an appeal of a denial to the Board Chairperson, you may file a civil action in the Allegan County Circuit Court within 180 days after OnPoint’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 OnPoint acted arbitrarily and capriciously in refusing to disclose or provide a public record, the Court may award you damages in the amount of \$1000.00

### **Appeal of an Excessive FOIA Processing Fee**

If you believe that the fee charged by OnPoint 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 OnPoint Board Chairperson.

The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The OnPoint *FOIA Appeal of Excess Fee Form*, is available at: [Resources & Forms – OnPoint](#).

Within 10 business days after receiving the appeal, the OnPoint Board Chairperson 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 OnPoint Board Chairperson will respond to the written appeal.

Within 45 days after receiving notice of the Board Chairperson's determination of the processing fee appeal, you may commence a civil action in the Allegan County Circuit Court for a fee reduction. If a civil action is filed appealing the fee, OnPoint is not obligated to process the request for the public record until the Court resolves the fee dispute.

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 OnPoint acted arbitrarily and capriciously by charging an excessive fee, Court may also award you punitive damages in the amount of \$500.00.