

POLICY: #906 - Freedom of Information Act

SECTION: Administration

MAINTAINED BY: Compliance Officer

APPLIES TO:

- ☒ OnPoint Board of Directors
- ☒ OnPoint Staff
- ☒ Contracted Providers
- ☐ Other: _____

Approved By: 
Chief Executive Officer

Approved By: _____
Medical Director (if applicable)

First Effective: 03/2017

Last Revised: 06/2026

PURPOSE

The purpose of this policy is to ensure compliance with Michigan's Freedom of Information (FOIA), Act 442 of 1976, as amended. It is the intent of OnPoint to perform public business in an open and public manner as required by Michigan's FOIA. This Policy describes the agency's procedures and guidelines for responding to FOIA requests.

DEFINITIONS

Best Efforts Estimate: a public body's estimate as to the time it will take to fulfill the request. The estimate will be comparable to what a reasonable person in the same circumstances as the public body would provide for fulfilling a similar public record request. The time frame estimate is nonbinding upon the public body, but the public body shall provide the estimate in good faith and strive to be reasonably accurate.

Fee: the total fee or any component of the total fee calculated under section 4 of the FOIA, including any deposit.

FOIA Coordinator: an individual responsible for accepting and processing requests for the public body's public records under the FOIA and shall be responsible for approving a denial. A FOIA Coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial.

Public record: a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public records do not include computer software. This act separates public records into the following two classes: a) Those that are exempt from disclosure under section 13 of the FOIA. b) All public records that are not exempt from disclosure under section 13 of the FOIA and which are subject to disclosure under this act.

Unusual circumstances: any one or a combination of the following, but only to the extent necessary for the proper processing of a request: a) 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. b) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the office receiving or processing the request.

Writing: handwriting, typewriting, printing, photostating, 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, hard drives, solid state storage components, or other means of recording or

retaining meaningful content.

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

POLICY

It is the policy of the OnPoint that all persons, except those who are serving a sentence of imprisonment, consistent with the Michigan Freedom of Information Act (FOIA), 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 employees. The people shall be informed so that they fully participate in the democratic process. OnPoint's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

To the extent that any portion of this procedure conflicts with Freedom of Information Act, Act 442 of 1976, as amended, the Freedom of Information Act controls.

PROCEDURE(S)

I. Guidelines

- A. OnPoint acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. OnPoint acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA to ensure the effective operation of government and to protect the privacy of individuals. OnPoint will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. OnPoint's policy is to disclose public records consistent with and in compliance with State law.
- B. The OnPoint Board of Directors, acting pursuant to the authority at MCL 15.236(2), designates OnPoint's Chief Executive Officer (CEO) as OnPoint's FOIA Coordinator and authorizes the CEO to appoint a FOIA Coordinator designee as needed.
- C. The FOIA Coordinator or Designee may, in his or her discretion, implement administrative rules, consistent with State law and these Procedures and Guidelines to administer the acceptance and processing of FOIA requests.
- D. OnPoint will make this Policy #906 Freedom of Information Act and the OnPoint #901.1 Public Summary of FOIA Procedures and Guidelines publicly available without charge on OnPoint's website at www.onpointallegan.org. A link will be provided in lieu of providing paper copies of the documents. Upon request, paper copies will be provided. If OnPoint has not made the policy, summary/guidelines available without charge, OnPoint cannot require deposits or charge fees otherwise permitted under the FOIA until it is in compliance.

II. Requesting a Public Record

- A. Written FOIA requests for public records may be submitted in person or by mail to FOIA Coordinator at OnPoint 540 Jenner Drive, Allegan, MI 49010. Requests may also be faxed to 269-686-5202 or emailed to FOIA@onpointallegan.org. Upon receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.
- B. The FOIA request must include:
 1. The requesting person's full name, address, and valid telephone number, and email address, unless the individual qualifies as indigent per Michigan's Freedom of Information Act.
 2. If a request is made by a person other than the individual wanting the information, the complete name, address, and contact information of the individual's agent must be provided, including a valid telephone number and/or email address.
 3. The request must sufficiently describe a public record to enable OnPoint's personnel to identify

and find the requested public record. If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a Notice of Denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines provided under the FOIA.

- C. No specific form to submit a request for a public record is required. However, OnPoint has approved and made available a *Request for Public Record Form* for use by the public which is available on the OnPoint website at www.onpointallegan.org
- D. A person may request that public records be provided on non-paper physical media, electronically mailed or otherwise provided to him or her in lieu of paper copies. OnPoint will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.
- E. If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day.
- F. If a request is sent by e-mail and delivered to a spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk- mail folder and the date the FOIA Coordinator became aware of the request.
- G. The FOIA Coordinator, or designee, shall review OnPoint spam and junk-mail folders on a regular basis, which shall be no less than once a month. The FOIA Coordinator shall work with OnPoint Information Technology staff to develop administrative rules for handling spam and junk mail to protect OnPoint's systems from computer attacks which may be imbedded in an electronic FOIA request.
- H. A person has a right to subscribe to future issuances of public records that are created, issued or disseminated by OnPoint on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.
- I. A person who makes a verbal, non-written request for information believed to be available on OnPoint's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.
- J. A person serving a sentence of imprisonment in a local, state, or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.
- K. OnPoint is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither the FOIA Coordinator nor other OnPoint staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.
- L. The FOIA Coordinator shall keep a copy of all written requests for public records received by OnPoint on file for a period of at least one year.

III. Processing a FOIA Request

- A. Unless otherwise agreed to in writing by the person making the request, within 5 business days of receipt of a FOIA request OnPoint will respond in one of the following ways:
 - 1. Grant the request.
 - 2. Issue a written notice denying the request.
 - 3. Grant the request in part and issue a written notice denying in part the request.
 - 4. Issue a notice indicating that due to the nature of the request OnPoint needs an additional 10 business days to respond for a total of 15 business days. Only one such extension is permitted.
 - 5. Issue a written notice indicating that the public record requested is available at no charge on

OnPoint's website at www.onpointallegan.org

- B. When a 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 FOIA policy.
1. The FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request and include a link to the policy on OnPoint's website.
 2. If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and where the documents can be obtained.
 3. If based on a good-faith calculation by OnPoint, the cost of processing a FOIA request is expected to exceed \$50, or if the requestor has not fully paid for a previously granted request, OnPoint will require a good-faith deposit before processing the request. In making the request for a good faith deposit the FOIA Coordinator shall provide the requestor with a detailed itemization of the allowable costs estimated to be incurred by OnPoint to process the request and also provide a best-efforts estimate of a time frame 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 be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by Section 1 of the FOIA.
- C. When a request is denied or denied in part:
1. If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide, as applicable:
 - a. An explanation as to why a requested public record is exempt from disclosure; or
 - b. A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by OnPoint; or
 - c. An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
 - d. An explanation of the person's right to submit an appeal of the denial to either the OnPoint Board Chairperson or seek judicial review in the Allegan County Circuit Court; and
 - e. An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of up to \$1,000, should the requester prevail in Circuit Court.
 2. The Notice of Denial shall be signed by the FOIA Coordinator.
- D. Requests to inspect public records:
1. OnPoint shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect OnPoint's records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal OnPoint operations.
- E. Requests for certified copies:
1. The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.

IV. Fees

A. Generally

1. A fee will not be charged for the cost of 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 because of the nature of the request in the particular instance, and OnPoint specifically identifies the nature of the unreasonably high costs.
2. The following factors shall be used to determine an unreasonably prohibitive cost to OnPoint:
 - a. The request incurs costs greater than those incurred from the typical or usual request received by OnPoint.
 - b. Volume of the public record requested.
 - c. Amount of time spent searching for, examine, review and separate exempt from nonexempt information in the record requested.
 - d. Available staffing to respond to the request.
 - e. Any other similar factors identified by the FOIA Coordinator in responding to the request.
3. OnPoint may charge the following costs associated with processing a FOIA request:
 - a. Labor costs are directly associated with searching for, locating, and examining a requested public record.
 - b. Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
 - c. The actual and most reasonably economical cost of non-paper physical media.
 - d. The cost of duplication of publication, not including labor, of paper copies of public records.
 - e. The cost of labor associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet or other electronic means; and
 - f. The actual cost of mailing or sending a public record.

B. Fee Deposits

1. If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation by OnPoint, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.
2. If a request for public records is from a person who has not fully paid OnPoint for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator may require a deposit of 100% of the estimated processing fee before beginning to search for a

public record for any subsequent written request by that person when all of the following conditions exist:

- a. the final fee for the prior written request is not more than 105% of the estimated fee;
 - b. the public records made available contained the information sought in the prior written request and remain in OnPoint's possession.
 - c. the public records were made available to the individual, subject to payment, within the time frame estimated by OnPoint to provide the records.
 - d. 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing.
 - e. the individual is unable to show proof of prior payment to OnPoint; and
 - f. the FOIA Coordinator has calculated a detailed itemization which is the basis for the current written request's increased estimated fee deposit.
3. The FOIA Coordinator will not require an estimated 100% fee deposit if any of the following apply:
- a. the person making the request is able to show proof of prior payment in full to OnPoint;
 - b. OnPoint is subsequently paid in full for the applicable prior written request; or
 - c. 365 days have passed since the person made the request for which full payment was not remitted to OnPoint.

C. Calculation of Fees

1. Labor costs will be calculated based on the following requirements:
 - a. All labor costs will be estimated and charged in 15-minute increments with all partial time increments rounded down.
 - b. 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 work.
 - c. 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.
 - d. If using contract or outside labor to separate and delete exempt from non-exempt material the public body must clearly note then name of the person or firm who does the work, and the labor cost may not exceed an amount six times the state minimum hourly wage.
 - e. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed itemization described in section 4 of the FOIA.
 - f. Overtime costs will not be used to calculate the fringe benefit cost.
2. The cost to provide paper copies of records will be based on the following requirements:
 - a. Paper copies of public records made on standard letter (8 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.
 - b. OnPoint may provide records using double-sided printing, if cost-saving and available.
3. The cost to mail records to a requestor will be based on the following requirements:
 - a. The actual cost to mail public records using a reasonably economical and justified means.
 - b. OnPoint may charge for the least expensive form of postal delivery confirmation.
 - c. OnPoint will not charge more for expedited shipping or insurance unless specifically stipulated by the requestor.
4. FOIA Coordinator does not respond to a written request in a timely manner, OnPoint must:

- a. Reduce the labor costs by 5% foreach day OnPoint exceeds the time permitted under FOIA up to a 50% maximum reduction, if *any* of the following applies:
 - i. The late response was willful and intentional.
 - ii. The written request, within the first 250 words of the body of a letter facsimile, e-mail or e- mail attachment conveyed a request for information.
 - iii. The written request included the words, characters, or abbreviations for “freedom of information”, “information”, “FOIA”, “copy” or a recognizable misspelling of such, or legal code reference to MCL 15. 231 et seq or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.
- b. Fully note the charge reduction in the *Detailed Cost/Itemization Form*.

I. Waiver of Fees

1. The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because such can be considered as primarily benefitting the general public. The 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.
2. The FOIA Coordinator will waive the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:
 - a. indigent and receiving specific public assistance; or
 - b. if not receiving public assistance stating facts demonstrating an inability to pay because of financial need.
3. An individual is not eligible to receive the waiver if:
 - a. the requestor has previously received discounted copies of public records from OnPoint twice during the calendar year; or
 - b. the requester requests information in connection with other persons who are offering or providing payment to make the request.
4. An affidavit is sworn statement. A *FOIA Affidavit of Financial Need* Form is available for use by the public and can be found at www.onpointallegan.org
5. The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from:
 - a. A nonprofit organization formally designated by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 10-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, if the request meets all of the following requirements:
 - i. Is made directly on behalf of the organization or its clients.
 - ii. Is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, 1974 PA258, MCL 330.1931.
 - iii. Is accompanied by documentation of its designation by the State, if requested by OnPoint’s FOIA Coordinator.

V. Appeals

A. Appeal of a Denial of a Public Record

1. If OnPoint makes a final determination to deny all or a portion of a request, the requesting person may do one of the following:
 - a. Submit to OnPoint’s Board Chairperson a written appeal that specifically states the word “appeal” and identifies the reason or reasons for reversal of the denial. Any

- such appeal is considered received on the date of the next regularly scheduled meeting of the OnPoint Board of Directors.
- b. Commence a civil action in the Allegan County Circuit Court within 180 days after OnPoint's final determination to deny a request.
 2. Within ten (10) business days after receiving a written appeal, OnPoint shall do one of the following:
 - a. Reverse the disclosure denial.
 - b. Issue a written notice to the requesting person upholding the disclosure denial.
 - c. Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.
 - d. Under unusual circumstances, issue a notice extending for not more than ten (10) business days the period during which the Board Chairperson shall respond to the written appeal. Not more than one notice of extension for a particular written appeal is allowed.
 3. If the Board Chairperson fails to respond to a written appeal of denial of a public record within the required time limits, the request is considered denied. The requester has the right to seek review in Circuit Court.
 4. If the Court determines that the public record is not exempt from disclosure, the Court will award the appellant reasonable attorneys' fees, cost and disbursements. If the Court determines that the appellant prevails only in part, the Court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.
 5. If the Court determines that OnPoint arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages in the \$1,000. The Court shall also order that the OnPoint pay a civil fine of \$1000 to the general fund of the State treasury.
- B. Appeal of an Excessive FOIA Processing Fee
1. If a requestor believes that the fee charged by OnPoint to process a FOIA request exceeds the amount permitted by state law, he or she must first submit a written appeal for a fee reduction to the Board Chairperson. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. OnPoint's *Appeal of Excess Fees Form* may be used and can be found at www.onpointallegan.org.
 2. Within 10 business days after receiving the appeal, the Board Chairperson, through its designee, 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, accompanied by a certification by the Board Chairperson that the statements in the determination are accurate and the reduced fee amount complies with this Policy and Procedures and Section 4 of the FOIA.
 - c. upholding the fee and issue a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee accompanied by a certification by the Chief Executive Officer that the statements in the determination are accurate and the fee amount complies with this Policy and Procedures and Section 4 of the FOIA; or
 - d. issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the Board Chairperson will respond to the written appeal.
 3. Within 45 days after receiving notice of the Board Chairperson's determination of a fee appeal, a requestor may commence a civil action in 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.

4. If the Court determines that OnPoint required a fee that exceeds the amount permitted under its publicly available FOIA policy, Section 4, the Court shall reduce the fee to a permissible amount. Failure to comply with an order of the Court may be punished as contempt of Court.
5. If the requesting person prevails in Court by receiving a reduction of 50% or more of the total fee, the Court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against OnPoint.
6. If the Court determines that OnPoint has arbitrarily and capriciously violated the FOIA by charging an excessive fee, the Court shall order OnPoint to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The Court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any 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.

VI. Conflict with Prior FOIA Policies and Procedures; Effective Date

- A. To the extent that this policy conflicts with previous FOIA policies promulgated by OnPoint, this policy is controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of this resolution is found to be in conflict with any previous policy promulgated by OnPoint, the administrative rule promulgated by the FOIA Coordinator is controlling.
- B. To the extent that any provision of this policy or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by OnPoint and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with State law.
- C. The FOIA Coordinator shall inform the Board of Directors of any change to this policy.

REFERENCE(S)

Freedom of Information Act, Act 442 of 1976, as amended

ATTACHMENT(S)

- 906.1 Summary of FOIA Policy
- 906.2 Request for Public Records Form
- 906.3 Notice to Extend Response Time Form
- 906.4 Detailed Cost Itemization Form
- 906.5 Notice of Denial Form
- 906.6 Appeal of Denial of Records Form
- 906.7 Appeal of Excess Fee Form
- 906.8 FOIA Affidavit of Financial Need Form