

POLICIES & PROCEDURES COMMITTEE

Martin D. Marshall
County Administrator

301 N. Main St. Adrian, MI 49221
p: 517-264-4508 | f: 517-264-4512
lenawee.mi.us



MEMBERS

Dawn Bales, Nancy Jenkins-Arno, James Goetz

MEETING LOCATION

Airport Committee Room
2667 Cadmus Rd
Adrian, MI 49221

Agenda: Monday, December 6, 2021 – Immediately follows 1:30 pm Airport Commission

I. Approval of Minutes – November 1, 2021

Review the following Policies

<http://www.lenawee.mi.us/639/County-Policies-Guidelines>

- A. Fair Housing
- B. Flag Etiquette
- C. FOIA Policy and Procedure
- D. Hiring Freeze Policy

II. New Business

III. Old Business

IV. Ready for recommendation

V. Other Business

VI. Public Comment

VII. Adjournment

Fair Housing Policy

#G10-02

Date of Adoption: November 10, 2010

Original Policy Adopted: August 10, 1988

Revoked in its Entirety: November 10, 2010

WHEREAS, under the Federal Fair Housing Law, Title VIII of the Civil Rights Act of 1968, it is illegal to deny housing to any person because of race, color, religion, gender, physical or mental disabilities or national origin; and,

WHEREAS, under the Michigan Elliott-Larsen Civil Rights Act, PA 453 of 1976, as amended it is illegal to deny the opportunity to obtain housing to any person because of religion, race, color, national origin, age, sex, height, weight, familial status, or marital status;

LET IT BE KNOWN TO ALL PERSONS that it is the policy of Lenawee County to implement programs to ensure equal opportunity in housing for all persons regardless of religion, race, color, national origin, sex, height, weight, familial status, or marital status. Therefore, Lenawee County does hereby pass the following Resolution:

BE IT RESOLVED that Lenawee County shall not discriminate in the sale, rental, leasing, or financing of housing because of religion, race, color, gender, physical or mental disabilities, national origin, age, height, weight, familial status, or marital status;

Lenawee County will assist all persons who feel they have been discriminated against because of religion, race, color, gender, physical or mental disabilities, national origin, age, height, weight, familial status, or marital status to seek equity under federal and state laws by providing information to said persons on how to file a complaint with the Michigan Department of Civil Rights.

Lenawee County will at a minimum post this policy or the Fair Housing poster or other posters, flyers or other information which will bring to the attention of owners of real estate, developers and builders their respective responsibilities and rights under the Federal Fair Housing Law and Michigan Elliott Larsen Act.

THEREFORE, BE IT ALSO RESOLVED, that the Fair Housing Policy/proposed ordinance dated August 10, 1988 is hereby revoked in its entirety;

PASSED by roll call vote of the Lenawee County Board of Commissioners at a regular meeting held on November 10, 2010 in the Old County Courthouse, Adrian, Michigan. This Resolution shall take effect as of this date.

Flag Etiquette Policy

#G86-01

Date of Adoption: October 8, 1986

At the Board of Commissioner meeting dated October 8, 1986; Comm. Hurlbut moved to adopt the Boy Scouts of America publication YOUR FLAG as the official County policy for flying the flag, Comm. Lockwood seconded, Motion CARRIED.

Please refer to Boy Scouts YOUR FLAG publication #33188A.

To help you out, some of the basics have been included below (taken from <http://usscouts.org/scoutduty/sd2gc90.asp>)

WHEN TO DISPLAY THE FLAG

1. The flag should only be displayed from sunrise to sunset on buildings and on stationary flag staffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four hours a day, if properly illuminated during the hours of darkness.
2. The flag should not be displayed on days when the weather is inclement, except when an all weather flag is displayed.
3. The flag should be displayed on all days, especially on New Years Day, Inauguration Day, Lincoln's Birthday, Washington's Birthday, Easter Sunday, Mother's Day, Armed Forces Day, Memorial Day (Half-staff until noon), Flag Day, Independence Day, Labor Day, Constitution Day, Columbus Day, Navy Day, Veterans Day, Thanksgiving Day, Christmas Day and such other days as may be proclaimed by the President of the United States.

HOW TO DISPLAY THE FLAG - STATIC DISPLAY

4. When the flag is suspended over a sidewalk from a line extending from a building at the edge of the sidewalk, the flag should be hoisted out, union first from the building.
5. When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left. When displayed in a window the flag should be displayed in the same way, with the union or blue field to the left of the observer in the street.
6. When the flag is displayed over the middle of a street, it should be suspended vertically with the union to the north on an east-west street or to the east on a north-south street.
7. The flag should form a distinctive feature of the ceremony of unveiling a statue or monument, but it should never be used as the covering for the statue or monument.
8. When the flag is used to cover a casket, it should be so placed that the union is at the head and over the left shoulder. The flag should not be lowered into the grave or allowed to touch the ground.
9. When the flag is suspend across a corridor or lobby in a building with only one main entrance, it should be suspended vertically with the union of the flag to the observer's left upon entering. If the building has more than one main entrance, the

flag should be suspended vertically near the center of the corridor or lobby with the union to the north when the entrances are to the east and west and with the union to the east when the entrances are to the north and south. If, there are more than two directions, the union should be to the east.

HOW TO DISPLAY THE FLAG - SPEAKERS PLATFORM

10. When used on a speaker's platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed in a church or public auditorium, the flag of the United States should hold the position of superior prominence, in advance of the audience, and in the position of honor at the clergyman's or speaker's right as he faces the audience. Any other flag so displayed should be placed on the left of the clergyman or speaker or to the right of the audience.

HOW TO DISPLAY THE FLAG - FROM A STAFF

11. When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the window sill, balcony, or front of a building, the union of the flag should be placed at the peak of the staff, unless the flag is at half staff.

HOW TO DISPLAY THE FLAG - WITH OTHER FLAGS

12. No other flag or pennant should be placed above or, if on the same level, to the right of the flag of the United States of America, except during church services conducted by naval chaplains at sea, when the church pennant may be flown above the flag during church services for the personnel of the Navy. No person shall display the flag of the United Nations or any other national or international flag equal, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within the United States, its Territories or possessions, except at the headquarters of the United Nations.
13. The flag of the United States of America, when it is displayed with another flag against a wall from crossed staffs, should be on the right (the flag's own right) and its staff should be in front of the staff of the other flag.
14. The flag of the United States of America should be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed from staffs.
15. When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the Flag of the United States, the latter should always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or the United States flag's right.
16. When flags of two or more nations are displayed they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

HOW TO DISPLAY THE FLAG - IN A PROCESSION, PARADE, ETC.

17. The flag, when carried in a procession with another flag or flags, should be either on the marching right (the flag's own right), or, if there is a line of other flags, in front of the center of that line.
18. At no time should any other flag or banner pass in front of the Flag of the United States ("front" means nearest or next to the presiding officer).
19. The flag should not be displayed on a float in a parade, except from a staff.
20. The flag should not be draped over any part of a vehicle, train or boat.
21. When the flag is passing in a parade or in review, all persons present except those in uniform should face the flag and stand at attention with the right hand over the heart. Those present in uniform should render the military salute. Aliens should stand at attention. The salute to the flag in a moving column should be rendered at the moment the flag passes.

RAISING AND LOWERING THE FLAG

22. The flag should be hoisted briskly and lowered ceremoniously.
23. The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half staff position. The flag should be again raised to the peak before it is lowered for the day.
24. During the ceremony of hoisting or lowering the flag all persons present except those in uniform should face the flag and stand at attention with the right hand over the heart. Those present in uniform should render the military salute. Aliens should stand at attention. The salute to the flag in a moving column should be rendered at the moment the flag passes.

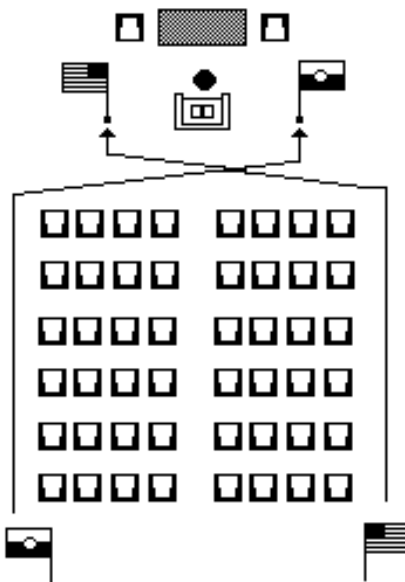
RESPECT FOR THE FLAG

25. The flag should not be dipped to any persons or things. Other flags are dipped towards the United States flag as a mark of honor.
26. The flag should never be displayed with union down, except as a signal of dire distress in instances of extreme danger to life or property..
27. The flag should never touch anything beneath it, such as the ground, floor, water, or merchandise.
28. The flag should never be carried flat or horizontally, but always aloft and free.
29. The flag should not be used as wearing apparel, bedding, or drapery.
30. The flag should never be fastened, displayed, used or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.
31. The flag should never be used as a covering for a ceiling.
32. The flag should never have placed upon it, nor on any part of it, nor attached to it, any mark, insignia, letter, word, figure, design, picture, or drawing of any nature.
33. The flag should never be used as a receptacle for receiving, holding, carrying, or delivering anything.
34. The flag should never be used for advertising purposes in any manner.

35. No part of flag should be used as a costume or athletic uniform. However, a flag patch may be affixed to a uniform.
36. Flag lapel pins should be worn on the left lapel near the heart.

DESTRUCTION OF THE FLAG OF THE UNITED STATES

37. The flag, when it is such condition that is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning. Burial is also an appropriate method. See "With Honor and Dignity", *Scouting Magazine*, May-June 1993 at p. 34. Though not strictly necessary, some Scouters prefer that when using either method the flag should be cut into two pieces down its center between two stripes. Then the blue union field should be separated. The remains no longer are a flag and may be destroyed without any disrespect to the former flag.





Freedom of Information Act (FOIA) Policy and Procedure

Date of Adoption: March 17, 2010

Dates of Amendment: 03/15, 06/15, 09/18

Michigan Freedom of Information Act Policy and Procedure

Pursuant to Public Act No. 442 of 1976

Preamble: Statement of Principles

It is the policy of Lenawee County that all persons, except those incarcerated, 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.

The County'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.

The County acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The County acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.

Lenawee County will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. The County's policy is to disclose public records consistent with and in compliance with State law.

The County Board of Commissioners has established the following written procedures and guidelines to implement the FOIA and will create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The written public summary will be written in a manner so as to be easily understood by the general public.

Section 1: General Policies

The County Board of Commissioners, acting pursuant to the authority at MCL 15.236, designates the Deputy County Administrator as the FOIA Coordinator. He or she is authorized to designate other County staff to act on his or her behalf to accept and process written requests for the County's public records and approve denials.

The following department heads shall be authorized to act as FOIA Coordinator Designees for their respective departments: County Prosecutor, County Clerk, County Sheriff, County Drain Commissioner, County Equalization Director, County Health Officer, County Environmental Health Administrator, and Medical Examiner. These FOIA Coordinator Designees will process all FOIA requests that are addressed to their respective departments. If, at any time, the FOIA Coordinator Designee has an unusual

Freedom of Information Act (FOIA) Policy (*continued*)

or difficult FOIA request, or is unsure of how to fill a request, the County FOIA Coordinator shall be contacted immediately.

If a request for a public record is received by fax or email, the request is deemed to have been received on the following business day. If a request is sent by email and delivered to a County 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.

The FOIA Coordinator 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.

The County 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 County staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

The FOIA Coordinator shall keep a copy of all written requests for public records received by the County on file for a period of at least one year.

The County will make this Procedures and Guidelines document and the Written Public Summary publicly available without charge. If it does not, the County cannot require deposits or charge fees otherwise permitted under the FOIA until it is in compliance.

A copy of this Procedures and Guidelines document and the County's Written Public Summary must be publicly available by providing free copies both in the County's response to a written request and upon request by visitors at County offices.

This Procedures and Guidelines document and the County's Written Public Summary will be maintained on the County's website at: www.lenawee.mi.us, so a link to those documents will be provided in lieu of providing paper copies of those documents.

Section 2: Requesting a Public Record

No specific form to submit a request for a public record is required. However the FOIA Coordinator may make available a FOIA Request Form for use by the public.

Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the County may be submitted on the County's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.

Freedom of Information Act (FOIA) Policy (*continued*)

Verbal requests for records may be documented by the County on the County's FOIA Request Form.

If a person makes a verbal, non-written request for information believed to be available on the County's website, where practicable and to the best ability of the employee receiving the request, shall be informed of the pertinent website address.

A request must sufficiently describe a public record so as to enable County personnel to identify and find the requested public record.

Written requests for public records may be submitted in person or by mail to any County office. Requests may also be submitted electronically by fax and email. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing.

A person may request that public records be provided on non-paper physical media, emailed or otherwise provided to him or her in digital form in lieu of paper copies. The County will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued or disseminated by Lenawee County on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

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.

Section 3: Processing a Request

Unless otherwise agreed to in writing by the person making the request, the County will issue a response within 5 business days of receipt of a FOIA request. If a request is received by fax, email or other electronic transmission, the request is deemed to have been received on the following business day.

The County will respond to a request in one of the following ways:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying in part the request.
- Issue a notice indicating that due to the nature of the request the County needs an additional 10 business days to respond for a total of no more than 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 the County's website.

Freedom of Information Act (FOIA) Policy (*continued*)

When a request is granted:

If the request is granted, or granted in part, 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.

A copy of these Procedures and Guidelines and the Written Public Summary will be provided to the requestor free of charge with the response to a written request for public records, provided however, that because these Procedures and Guidelines, and the Written Public Summary are maintained on the County's website at: www.lenawee.mi.us, a link to the Procedures and Guidelines and the Written Public Summary will be provided in lieu of providing paper copies of those documents.

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.

If the cost of processing a FOIA request is expected to exceed \$50 based on a good-faith calculation, or if the requestor has not paid in full for a previously granted request, the County will require a good-faith deposit pursuant to Section 4 of this policy 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 the County to process the request and also provide a best efforts estimate of a time frame it will take the County to provide the records to the requestor. The best efforts estimate shall be nonbinding on the County, 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.

When a request is denied or denied in part:

If the request is denied or denied in part, the FOIA Coordinator will issue a Notice of Denial which shall provide in the applicable circumstance:

- An explanation as to why a requested public record is exempt from disclosure; or
- A certificate that the requested record does not exist under the name or description provided by the requestor, or another name reasonably known by the County; or
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and
- An explanation of the person's right to submit an appeal of the denial to either the County Board of Commissioners or seek judicial review in the Lenawee County Circuit Court; and

Freedom of Information Act (FOIA) Policy (*continued*)

- An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should they prevail in Circuit Court.
- The Notice of Denial shall be signed by the FOIA Coordinator.

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 described in this Section.

Requests to inspect public records:

The County 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 County records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal County operations.

Requests for certified copies:

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.

Section 4: Fee Deposits

If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation, the requestor will be asked to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not paid the County in full for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will 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:

- The final fee for the prior written request is not more than 105% of the estimated fee;
- The public records made available contained the information sought in the prior written request and remain in the County's possession;
- The public records were made available to the individual, subject to payment, within the time frame estimated by the County to provide the records;
- Ninety (90) days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
- The individual is unable to show proof of prior payment to the County; and
- The FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

Freedom of Information Act (FOIA) Policy (*continued*)

The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:

- The person making the request is able to show proof of prior payment in full to the County;
- The County is subsequently paid in full for the applicable prior written request; or
- Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to the County.

The FOIA Coordinator may, at any time, require payment in full for any request prior to the information being released.

Section 5: Calculation of Fees

A fee may be charged for the labor cost of copying/duplication.

A fee will **not** be charged for the labor 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 the County because of the nature of the request in the particular instance, and the County specifically identifies the nature of the unreasonably high costs.

Costs for the search, examination, review, and deletion and separation of exempt from non-exempt information are “unreasonably high” when they are excessive and beyond the normal or usual amount for those services (Attorney General Opinion 7083 of 2001) compared to the costs of the County’s usual FOIA requests, not compared to the County’s operating budget. (*Bloch v. Davison Community Schools*, Michigan Court of Appeals, Unpublished, April 26, 2011)

The following factors shall be used to determine an unreasonably high cost to the County:

- Volume of the public record requested
- Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
- Whether the public records are from more than one County department or whether various County offices are necessary to respond to the request.
- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

The Michigan FOIA statute permits the County to charge for the following costs associated with processing a request:

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.

Freedom of Information Act (FOIA) Policy (*continued*)

- Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to the County.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to the County.
- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the County's website if you ask for the County to make copies.
- The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on the County's website if you ask for the County to make copies.
- The cost to mail or send a public record to a requestor.

Labor costs will be calculated based on the following requirements:

- 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 County employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits.
- The County 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 the fringe benefit cost.
- Contracted labor costs will be charged at the hourly rate of \$48.90 (6 times the state minimum hourly wage).

The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

- Computer disks, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will only be assessed if the County has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- The County will procure any non-paper media and will not accept media from the requestor in order to ensure integrity of the County's technology infrastructure.

Freedom of Information Act (FOIA) Policy (*continued*)

The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will be reviewed annually to reflect the actual cost of reproduction and will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- The County will provide records using double-sided printing, if it is cost-saving and available.

The cost to mail records to a requestor will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- The County may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless specified by the requestor.

If the FOIA Coordinator does not respond to a written request in a timely manner, the County must:

- Reduce the labor costs by 5% for each day the County exceeds the time permitted under FOIA up to a 50% maximum reduction, if **any** of the following applies:
 - The County's late response was willful and intentional,
 - The written request conveyed a request for information within the first 250 words of the body of a letter facsimile, email or email attachment, or
 - 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 email, letter or facsimile cover page.
- Fully note the charge reduction in the Detailed Itemization of Costs Form.

Section 6: Waiver of Fees

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 it can be considered as primarily benefitting the general public. The County Board of Commissioners may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

Section 7: Discounted Fees

Indigence

The FOIA Coordinator will discount 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:

- Indigent and receiving specific public assistance, or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

Freedom of Information Act (FOIA) Policy (*continued*)

An individual is not eligible to receive the waiver if:

- The requestor has previously received discounted copies of public records from the County twice during the calendar year; or
- The requestor requests information in connection with other persons who are offering or providing payment to make the request.

An affidavit is sworn statement. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

Nonprofit organization advocating for developmentally disabled or mentally ill individuals

The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from:

- A nonprofit organization 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, or their successors, if the request meets all of the following requirements:
 - 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.

Section 8: Appeal of a Denial of a Public Record

When a requestor believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may appeal to the County Board of Commissioners by filing an appeal of the denial with the office of the County Administrator.

The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requestor is seeking a reversal of the denial. The County FOIA Appeal Form (To Appeal a Denial of Records), may be used.

The County Board of Commissioners is not considered to have received a written appeal until the first regularly scheduled County Board of Commissioners meeting following submission of the written appeal.

Within 10 business days of receiving the appeal the County Board of Commissioners will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or

Freedom of Information Act (FOIA) Policy (*continued*)

- Reverse the disclosure denial in part and uphold the disclosure denial in part; or
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the County Board of Commissioners shall respond to the written appeal. The County Board of Commissioners shall not issue more than 1 notice of extension for a particular written appeal.

If the County Board of Commissioners fails to respond to a written appeal, or if the County Board of Commissioners upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action in Circuit Court.

Whether or not a requestor submitted an appeal of a denial to the County Board, he or she may file a civil action in Lenawee County Circuit Court within 180 days after the County's final determination to deny the request.

If a court that determines a public record is not exempt from disclosure, it shall order the County to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Failure to comply with an order of the court may be punished as contempt of court.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in such an action, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or County prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

If the court determines that the County has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the County to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

Section 9: Appeal of an Excessive FOIA Processing Fee

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

If a requestor believes that the fee charged by the County to process a FOIA request exceeds the amount permitted by state law or under this policy, he or she must first appeal to the County Board of Commissioners by submitting a written appeal for a fee reduction to the office of the County Administrator.

Freedom of Information Act (FOIA) Policy (*continued*)

The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The County FOIA Appeal Form (To Appeal an Excess Fee) may be used.

The County Board of Commissioners is not considered to have received a written appeal until the first regularly scheduled County Board of Commissioners meeting following submission of the written appeal.

Within 10 business days after receiving the appeal, the County Board of Commissioners will respond in writing by:

- Waiving the fee;
- Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issuing 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 the County Board of Commissioners will respond to the written appeal. The County Board of Commissioners shall not issue more than 1 notice of extension for a particular written appeal.

Where the County Board of Commissioners reduces or upholds the fee, the determination must include a certification from the County Board of Commissioners that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and Section 4 of the FOIA.

Within 45 days after receiving notice of the County Board's determination of an appeal, the requesting person may commence a civil action in Lenawee County Circuit Court for a fee reduction.

If a civil action is commenced against the County for an excess fee, the County is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

An action shall not be filed in circuit court unless **one** of the following applies:

- The County does not provide for appeals of fees,
- The County Board of Commissioners failed to respond to a written appeal as required, or
- The County Board of Commissioners issued a determination to a written appeal.

If a court determines that the County required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or Section 4 of the FOIA, 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.

Freedom of Information Act (FOIA) Policy (*continued*)

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 the public body liable for damages.

If the court determines that the County has arbitrarily and capriciously violated the FOIA by charging an excessive fee, the court shall order the County 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.

Section 10: Conflict with Prior FOIA Policies and Procedures; Effective Date

To the extent that these Procedures and Guidelines conflict with previous FOIA policies promulgated by County Board of Commissioners or the County Administration these Procedures and Guidelines are 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 the County Board of Commissioners or the County Administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

To the extent that any provision of these Procedures and Guidelines 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 the County Board of Commissioners or the County Administration, 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. The FOIA Coordinator shall inform the County Board of Commissioners of any change these Policies and Guidelines.

These FOIA Policies and Guidelines become effective July 1, 2015.

Section 11: Appendix of Lenawee County FOIA Forms

- Request for Public Records Form
- Notice to Extend Response Time Form
- Notice of Denial Form
- Detailed Cost Itemization Form
- Appeal of Denial of Records Form
- Appeal of Excess Fee Form

LENAWEE COUNTY BOARD OF COMMISSIONERS

301 N. Main St. Courthouse ~ Adrian, MI 49221

(517) 264-4508

www.lenawee.mi.us

CHAIR

David Stimpson

VICE-CHAIR

Terry Collins



Dawn Bales

Karol "KZ" Bolton

Nancy Jenkins-Arno

Bob Knoblauch

John Lapham

Ralph Tillotson

Chris Wittenbach

POLICY#2019-006

HIRING FREEZE POLICY

Date of Adoption: January 4, 1989

Date of Amendments: 4/13/11, 5/8/13, 12/13/17

INTRODUCTION

In an effort to maintain a balance of satisfactory service to the County public in the face of dwindling revenues and revenue sources, cost-saving measures need to be developed and exercised. One such measure is to develop and adopt a comprehensive hiring freeze policy which will enable the County department heads and elected officials along with the County Board of Commissioners an opportunity to examine department functions and services in conjunction with cost reduction efforts.

DEFINITION OF POSITIONS

1. Positions Covered
 - a) All full time employees
 - b) All regular part-time employees who are regularly scheduled for 20 or more hours per week with eligibility for some fringe benefits.
2. Positions Not Covered
 - a) Temporary employees
 - b) Part-time employees who work less than 20 hours per week and are not eligible for any fringe benefits
 - c) "On-call" employees

FREEZE PROCEDURE

1. All requests to replace a covered position shall be made to the County Administrator.
2. The County Administrator may authorize a department to fill a position that is currently budgeted. The Administrator may also authorize a reorganization of the department which meets the staffing needs of the department and fits within the current and projected budgets.
3. Any request for additional staffing or reclassification of existing staff must be presented to the Personnel/Ways and Means Committee in writing at least two weeks in advance of the meeting.

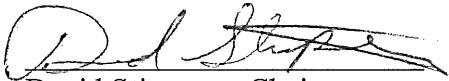
SCOPE OF HIRING FREEZE

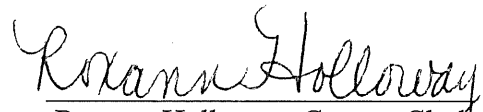
This hiring freeze covers all general fund and non-general fund departments which have employees carried on the County payroll.

TEMPORARY EMPLOYEES

1. Department heads and elected officials may continue to hire temporary employees to fill positions temporarily vacated due to medical or personal leave reasons providing that the employee normally filling the position is drawing Sickness and Accident benefits (or workers compensation) or is not drawing leave time while on personal leave. Filling positions with temporary replacements for employees who are on vacation and drawing leave time will not be permitted.
2. Department heads and elected officials who have budgeted and scheduled temporary employees for seasonal work or special cyclical duties may continue hiring such temporary employees.
3. Department heads and elected officials in those departments that utilize them may continue to hire temporary employees carried on an "on-call" basis as budgeted.
4. Temporaries may be hired to fill vacated positions during the sixty-day waiting period if the funding is in the department budget.

PASSED BY ROLL CALL VOTE of the Lenawee County Board of Commissioners at a regular meeting held Wednesday, March 13, 2019, in the Old County Courthouse, Adrian, Michigan.


David Stimpson, Chair


Roxann Holloway, County Clerk