



**MICHIGAN
ASSOCIATION
OF MAYORS**

2026 Summer Workshop

August 5-7, 2026 | Farmington, MI



Freedom of Information Revisited

- Where do you and the council fit in?
- First and foremost, you need to select a FOIA coordinator
 - Hint:
- Do not appoint a procrastinator

FOIA Coordinator...

- Actually handles the response.
- Elected officials do not (unless they have been appointed as the FOIA coordinator).

Some of the things that a FOIA Coordinator does...

- Becomes familiar with your FOIA policy.
- Makes an estimate of the cost to fulfill a FOIA request.
- If applicable, request a deposit.
- Make a determination on what parts of a request are exempt.
- Consult the municipal attorney if necessary.
- Separate (and/or redact) exempt from non-exempt material.
- Inform the requestor of any exempted material.
- Inform the requestor of their appeal rights if some material is withheld.
- Inform the requestor if the records requested do not exist.

Common FOIA Exemptions:

- bids (until a bid is selected);
- test questions / answers;
- tentative bargaining agreement
- Crime Victim Rights Act

Attorney-Client Privilege — must be a record that is between an attorney and client (city) containing privileged advice of a legal nature or client confidences. Includes all agents or employees of the city who are authorized to act or speak for the city in relation to the subject matter of the communication.

(Hubka v Pennfield Twp, 197 Mich App 117 (1992), 443 Mich 864 (1993)).

IN 1976...



1976...



Today and Tomorrow's Technology

- A significant case is Howell Education Association v. Howell Board of Education
- This case provided a new concept known as purely personal communication
- The most important take away of the case is the content of the message is more important than where the message is stored

FOIA Coordinator handles the request...

- All Done Right?
- Not necessarily.
- The Appeal!

The FOIA Coordinator has to inform the requestor of the right to appeal ...

- There are two types of appeals.
- The first is to appeal a denial of all or part of a FOIA.
- The second is to appeal the amount being charged to fulfill all or part of a request.

Disclosure Appeals

A requesting party may:

- 1) forward a written appeal to the head of the public body that specifically states why reversal is proper; or
- 2) seek judicial review of the denial in the circuit court. The requesting party has 180 days from the final determination to deny the request.

Disclosure Appeals

Within 10 business days after receiving a written appeal, the head of the public body shall do one of the following:

- 1) Reverse the disclosure denial.
- 2) Issue a written notice to the requesting party upholding the disclosure denial.
- 3) Reverse the disclosure denial in part and issue a written notice to the requesting party upholding the disclosure denial in part.

Disclosure Appeals

- 4) Under unusual circumstances, issue a notice extending the appeal period for not more than 10 business days. The head of the public body may not issue more than one notice of extension for a particular written appeal.

Disclosure Appeals

Venue and Standard for Review in the Circuit Court:

- 1) The proper venue for a non-disclosure case is the county in which the public record or an office of the public body is located.
- 2) The court shall make its own determination and the burden is on the public body to prove its denial was valid under the Act.

Fee Appeals

Appeal Options for Fees Charged:

If the public body has an appeal procedure in its required procedures and guidelines: the requesting party shall submit to the head of the public body a written appeal for a fee reduction that states the word "appeal" and identifies how the fee exceeds the written procedure and guidelines or the Act. Within 10 business days, the head of the public body shall do one of the following:

Fee Appeals

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and the FOIA act.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and FOIA.

Fee Appeals

- **If the appeal is denied, the head of the public body does not respond in a timely fashion, or the public body does not provide for appeals:** the requesting party may file a case seeking a fee reduction. The case must be filed within forty-five (45) days after receiving notice of the required fee or a determination of an appeal by the head of the public body. If a case is filed under this section, a public body is not required to complete the processing of the FOIA request until the court has resolved the fee dispute.

Penalties

- There are many penalties for not responding properly to a FOIA request.
- The legislature assumes that requests are for valid reasons.
- There are a few items in the statute that protects a community. Such as failure to pick up and pay for requests, or not paying a deposit request.

Additional Information on FOIA

MML FOIA Resource Packet - available via the MML website www.mml.org — click on “Resources & Research” then “Jump to Fact Sheets” then “Freedom of Information Act”.

Michigan Municipal Law, chapter 5 “Sunshine Laws and Local Government” by Steven Mann and Ronald Liscombe; published by ICLE in 2012, updated July 2018.

• QUESTIONS?

Thank You



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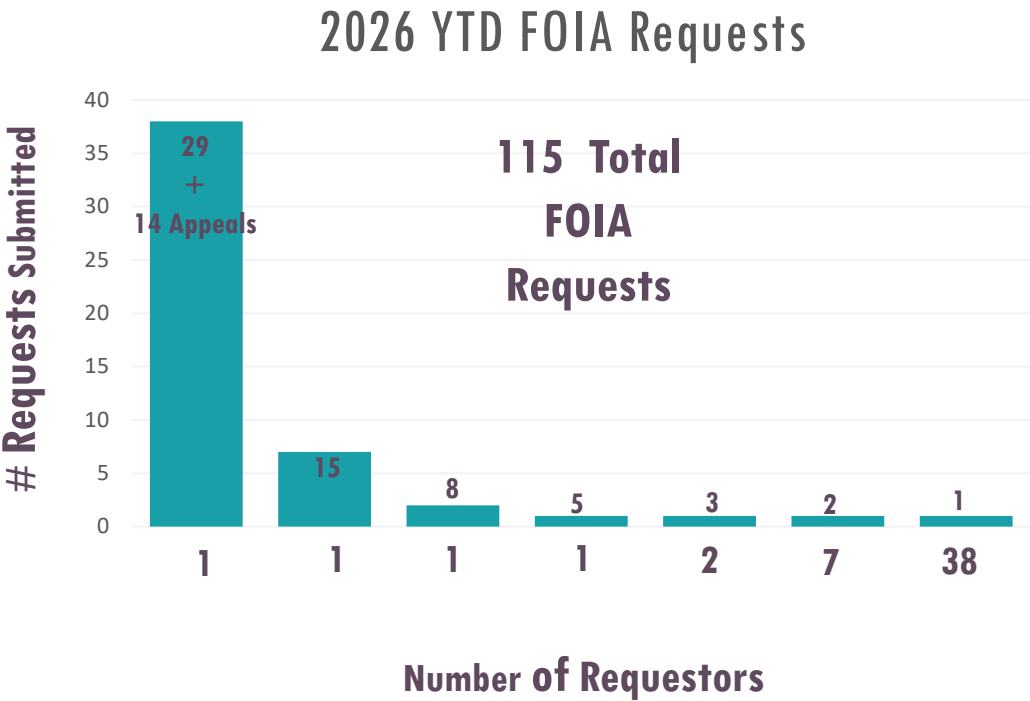


BEYOND THE BASICS: FOIA MONSTER

2026 YTD General FOIA Requests: 115 + 14 Appeals

Approx. 490 hours of staff time – 12.25 weeks
92% = FOIA Monster

Comparison: 2025 YTD 79 General FOIA Requests



ATTORNEY SUPPORT / TRAINING

- Clerk's Office / FOIA Coordinator
- FOIA Monster = Support for Clerk's office — attorneys needed
- FOIA Training
- Develop a Strategy

HIGH VOLUME OF REQUESTS & APPEALS

- Develop a Process
- FOIA Software
- Appeal Process