



FREEDOM OF INFORMATION ACT
Act 442 of 1976

Procedure and Guideline Manual

OVERVIEW:

The Freedom of Information Act (FOIA) provides for public access to certain public records of public bodies. As a public institution in the State of Michigan, Jackson College is subject to provisions of the State's Freedom of Information Act (FOIA). Under the FOIA, "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...." Consequently, any individual other than a federal, state or county prisoner has the right to inspect and/or receive copies of public records maintained by the College.

FOIA regulates and sets requirements for the disclosure of public records by all public bodies. FOIA provides that all communications of a public body are subject to disclosure unless specifically exempted by the Act. A public body may, but is not required to, withhold from public disclosure those categories of public records exempt from disclosure under the Act.

In general all requests for documents must be responded to within 5 business days after the date the request is received. A 10 business day extension may be obtained by sending an extension letter. Failure to respond to a FOIA request constitutes a denial. Denials give the requestor the right to appeal to the head of the public body or commence an action in the circuit court to compel the disclosure of the public record.

For detailed information on FOIA, please visit the State of Michigan Attorney General's website at www.michigan.gov/ag or view FOIA in its entirety online at www.legislature.mi.gov

PROCEDURE TO REQUEST RECORDS:

Jackson College has designated the Chief of Staff as its FOIA Officer. The Chief of Staff may authorize other personnel to act on his or her behalf. FOIA requests must be submitted in writing. Written FOIA requests can be submitted in person, via mail, email or facsimile and can be sent to the following contact information:

Attn: FOIA Officer, Cindy Allen
Human Resources Office
Jackson College
2111 Emmons Rd.
Jackson, MI 49201

Requests can also be emailed to the designated FOIA Officer, Cindy Allen at DunbarJoyceD@jccmi.edu. Additional questions can be directed to (517) 796-8467 or at DunbarJoyceD@jccmi.edu.

A Standard form is included in this manual that may be used for your request, although use of this form is not required (See Appendix A). Please include your mailing address, daytime phone number, as well as an e-mail address and fax number if applicable on your request. Unless otherwise indicated, responses will be sent using email if an email address is provided as well as mailed to the address provided. Please note that you will receive confirmation that your request has been received. If you do not receive confirmation, please contact the FOIA Officer immediately at (517) 796-8467 to ensure your request has been received.

Requests for records should be as specific as possible. The law notes that requests should describe “a public record sufficiently to enable the public body to find the public record...”

Please note that the College is not required to make a compilation, summary or report of information, or to create a new public record. The College is required to provide “future issuances of public records that are created, issued, or disseminated on a regular basis” if requested. Such “subscriptions” are valid for up to six months, and are renewable.

TIMELINE:

A request must be in writing (which includes e-mail and fax). The College has not more than five business days after receiving a request to respond. The response period can be extended by the FOIA Officer up to an additional 10 business days.

A FOIA request can be submitted to any office at the College and that office is responsible for promptly forwarding the request to the FOIA Officer. However, persons are encouraged to submit their requests directly to the FOIA Officer to avoid inadvertent delays.

The FOIA Officer can either grant a request; deny it in full or in part, citing one or more exemptions specified in the FOIA; or certify that the requested document(s) doesn't exist.

COSTS:

As a public body, Jackson College may choose to charge a fee for the necessary copying of a public record for inspection or providing a copy of a public record to a requester, search, examination and review and the separation of exempt information in those instances where failure to charge a fee would result in unreasonably high costs to the public body. A detailed cost sheet is included in this manual – see Appendix B.

Effective July 1, 2015 any public records posted on the website must be provided free of charge.

UNDERSTANDING THE RESPONSE YOU RECEIVE:

The College will respond in one of the following ways to your FOIA request:

- 1) Request granted in full with requesting information provided to you.
- 2) Request granted in part and denied in part. Portions of your request are exempt from disclosure based on provisions set forth in the Act or because the documents you have requested do not exist and the College is not required to create documents. Comments will be included that specify why your request was partially denied.
- 3) Request denied because of provisions set forth in the Act or because the documents requested do not exist and the College is not required to create documents. Comments will be included that specify why your request was denied.
- 4) If the FOIA Officer needs additional time to process your request, you will be notified that the response period is being extended by an additional 10 days.

APPEAL PROCESS:

A person may appeal a final decision to deny a request to the President of the College and the President will respond within 10 days, except under unusual circumstances. Please submit appeals to:

Office of Human Resources
Jackson College
2111 Emmons Road
Jackson, MI 49201
Email: DunbarJoyceD@jccmi.edu

FREQUENTLY ASKED QUESTIONS:

What is a public record?

The FOIA broadly defines a public record as 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.” The law defines a “writing” as “handwriting, typewriting, printing, photostatting, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.” E-mail messages are considered public records under the FOIA if they deal with University business. However, the law specifically excludes computer software from the definition of public record.

A person's correspondence requesting information under the FOIA is itself considered a public record.

Can some records be withheld?

The law recognizes that in some instances the public interest may be better served by not disclosing information. FOIA provides a number of exemptions ranging from matters of privacy to confidential research-related information. However, all of these exemptions are optional, with one exception. The exemption protecting student records, the federal Family Educational Rights and Privacy Act (FERPA), is mandatory.

The decision whether material should be withheld is made by the FOIA Officer, if necessary after consultation with other appropriate offices.

Are Student Records Protected?

Student records are protected from disclosure through FOIA under a federal law, the Family Educational Rights and Privacy Act of 1974 (FERPA). In most instances, the College does not release material contained in student records except for information designated as "public information." Currently enrolled students may elect to have such public information withheld by filing a written request with the Registrar's Office during each term they are enrolled.

Jackson College has designated the following information as public:

- Student's name
- Student's phone number(s)
- Student's e-mail address(es)
- Student's address
- Date and place of birth
- Current enrollment status and/or dates of attendance
- Class (freshman, sophomore, etc.)
- Major field of study
- Current term candidacy for degree and/or certificate
- Information pertaining to awards and honors achieved Degree(s) earned from Jackson College and effective date(s) and
- Participation in officially recognized College activities and sports, including weight and height of athletic team members.

APPENDIX A Example Request Form

[Your Name]
[Street Address]
[City, ST ZIP Code]

[Date]

FOIA Officer
Jackson College
2111 Emmons Road
Jackson, MI 49201

Dear **FOIA Officer**:

Under the **Michigan Freedom of Information Act § 15.231 et seq.**, I am requesting an opportunity to inspect or obtain copies of the following public records: ***[Describe the records or information sought with enough detail for the public agency to respond. Be as specific as your knowledge of the available records will allow. But it is more important to describe the information you are seeking.]***

Please provide me with the requested documents by the following means: *[for example, make available to copy, provide them for me to pickup, mail, e-mail, etc.]* I understand that the College is only required to provide records in a digital format or on digital media if it is technologically capable of doing so.

[Please check the box next to any of the following that apply to your request.]

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$_____.

I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of _____ ***[Here, you can identify yourself as a representative of the news media if applicable and state that your request is related to news gathering purposes.]*** This information is not being sought for commercial purposes.

I am indigent and request a fee waiver for the first \$20 of any fee. I have or will submit the required affidavit in support of my assertion of indigency.

I am acting directly on behalf of a qualifying non-profit organization and request a fee waiver for the first \$20 of any fee. I have or will provide documentation, if requested, in support of the assertion that the non-profit organization qualifies for this waiver.

Even if the documents requested are available on the College's website, I am requesting that they still be made available to me in the format requested above.

[] I consent to the College using overtime wages, if applicable, in calculating any labor costs associated with responding to my request.

[] I consent to a non-statutory extension of time, meaning more than the allowed 10 day extension, and agree that the College may provide its response on or before *[date]* _____.

The Michigan Freedom of Information Act requires a response to this request within five days. If access to the records I am requesting will take longer than this amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

[Your Name]

[Your Phone number]

[Your e-mail address if you are requesting transmission for our response by e-mail]

APPENDIX B
Itemization of Allowable FOIA Charges

The following are [] estimated [] actual fees that will be charged to you by Jackson College for responding to your FOIA request in accordance with MCL 15.234.

Portion of labor costs directly associated with the necessary searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request.

Jackson College shall not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in the particular instance regardless of whether that person is available or who actually performs the labor. Labor shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.

\$ _____ (representing ____ hours at a rate of \$ _____)

The above cost is directly associated with the necessary searching, examining, reviewing and/or redacting (as noted above) of public records to respond to your request. This fee is being charged because, if it is not charged, the cost to Jackson College will be unreasonably high due to the nature of the request; more specifically, _____.

Labor Costs, Including Necessary Review, if Any, Directly Associated with the Separating and Deleting of Exempt Information from Nonexempt Information as Provided in MCL 15.244.

For services performed by an employee of Jackson College, the College shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from nonexempt information.

If Jackson College does not employ a person capable of separating and deleting exempt information from nonexempt information it may treat necessary contracted labor costs used for the separating and deleting of exempt information from nonexempt information in the same manner as employee labor costs when calculating charges. Total labor costs shall not exceed an amount equal to 6 times the state minimum hourly wage rate. Labor costs shall be estimated and charged in increments of 15 minutes or more, with all partial time increments rounded down.

\$ _____ (non-contracted) (representing ____ hours at a rate of \$ _____)

\$ _____ (contract to _____) (representing ____ hours at a rate of \$ _____)

The above cost is directly associated with the necessary searching, examining, reviewing and/or redacting (as noted above) of public records to respond to your request. This fee is being charged because, if it is not charged, the cost to Jackson College will be unreasonably high due to the nature of the request; more specifically, _____.

For public records provided to the requestor on nonpaper physical media, the actual and most reasonably economical cost of the computer discs, computer tapes, or other digital or similar media.

If requested, Jackson College may provide records on nonpaper physical media if it's within Jackson College's technological capability. The fee for such provision shall be the actual and most reasonably economical costs of the media:

\$ _____

For paper copies of public records provided to the requestor, the actual total incremental cost of necessary duplication or publication, not including labor.

This fee is based on the total cost per sheet of 8 1/2 x 11 inch or 8 1/2 x 14 inch paper at a rate of 10 cents or less as noted below. Double sided printing will be used for cost savings.

\$ _____ (____ sheets at a rate of _____ per sheet)

The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor.

The College shall not charge more than the hourly wage of its lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor. Labor costs under this subdivision may be estimated and charged in time increments of the College's choosing; however, all partial time increments shall be rounded down.

\$ _____ (representing _____ hours at a rate of \$ _____)

The above cost is directly associated with the necessary searching, examining, reviewing and/or redacting (as noted above) of public records to respond to your request. This fee is being charged because, if it is not charged, the cost to Jackson College will be unreasonably high due to the nature of the request; more specifically, _____.

Actual Cost of Mailing, if Any.

The actual costs of mailing by the least expensive form of postal delivery confirmation or by other means if specifically requested by the requestor.

\$ _____

SUBTOTAL OF FEES \$ _____

Applicable Discounts and Reductions.

Indigent Requestor Discount, if Applicable.

\$ _____ (subtract \$20 from subtotal)

Nonprofit Organization Requestor Discount, if Applicable.

\$ _____ (subtract \$20 from subtotal)

Late Response Labor Costs Reduction, if Applicable.

\$ _____ (reduction of 5% per day late, to a maximum reduction of 50%)

TOTAL ESTIMATED/ACTUAL FEES AFTER ANY APPLICABLE DISCOUNTS/REDUCTIONS:

\$ _____

The Total Fees, less any deposit, must be paid before copies may be picked up, delivered or mailed.

JC's best effort estimate of the time frame it will take JC to provide the records is _____ days.

DETERMINATION OF DEPOSIT REQUIRED

Good Faith Deposit.

Jackson College may require a good faith deposit *prior to providing records to the requestor* if the fee estimate or charge exceeds \$50, after a good faith calculation of the total fee. This deposit may not exceed 50% of the total estimated fee.

Percentage charged for deposit _____%, for a required deposit of \$_____.

Increased Deposit, if Applicable.

Jackson College may require an estimated fee deposit of up to 100% *prior to beginning its search for records* if the requester has previously been provided documents under FOIA from Jackson College and has not paid the total amount of fees in full and all other statutory requirements are met.

Percentage charged for deposit _____%, for a required deposit of \$_____.