



## 1.6 Freedom of Information Procedures and Guidelines Policy with Public Summary

### **Freedom of Information Procedures and Guidelines**

1. Purpose. It is the intent of this policy to provide clear-cut procedures for citizens and Traverse Area District Library (TADL) officials in requesting and disclosing public records under the Michigan Freedom of Information Act (FOIA). The intent of this Procedures and Guidelines Policy (the “Policy”) is to comply in all respects with the FOIA, and the FOIA shall be deemed a part of this Policy. In the event of an unintentional conflict between this Policy and the FOIA, the FOIA shall control.
2. FOIA Coordinator. The Library Director is hereby designated as the FOIA Coordinator. Pursuant to MCL 15.236(3), the FOIA Coordinator may designate another individual to act on their behalf in accepting and processing FOIA requests in the event of the Library Director’s absence. With the exception of Section 4 of this Policy, all TADL officials and employees receiving document disclosure inquiries shall immediately transfer them to the FOIA Coordinator or designee. All written requests for public records shall be forwarded to the FOIA Coordinator or designee to keep for no less than one year.
3. Definition of Library Public Records. Library public records are defined as information prepared, owned, used, in the possession of, or retained by the Library in the performance of an official library function. Materials in the library collection are publicly available according to circulation and other holdings policies of the library and according to the mission of TADL. Any request for materials in the library collection shall not be processed as FOIA requests, but rather according to applicable TADL policy and procedure.
4. Procedure. With the exception of information requested described in Sections 3 and 5 of this policy, all responses to requests for information under the FOIA shall be forwarded to and reviewed by the FOIA Coordinator or designee prior to responding to the request according to the following procedure:
  - A. Requests to review and for copies of records under the FOIA shall be in writing and shall sufficiently describe the public record to enable the FOIA Coordinator or designee to identify the requested public record and shall include the name of the individual(s) or firm requesting the public records, mailing address, email address, and telephone number. In the event that clarification is needed, the FOIA Coordinator or designee may send a notice requesting clarification of the request and such notice shall not be interpreted as a denial of the request. The requesting person agrees by submitting a FOIA request that the date that such clarification is provided shall be deemed the date of receipt of the request.
  - B. Updates or revisions to any of the requested information will not be automatically supplied by TADL. A new written request must be made for any revisions or updated versions of the requested public record unless the requesting person has submitted a subscription

request under Section (3)(1) of the FOIA for information that is created, issued, or disseminated on a regular basis.

- C. Requests shall be considered received if by mail on the date of receipt. The request shall be date-stamped by the TADL. If the request is received by email or other electronic means, the request shall be received on the next business day. If the request is received by TADL in a junk email or spam account, the request shall not be received until one business day following the date that TADL becomes aware of the request.
- D. Requests received in a junk mail or spam account shall be logged as to the date that the request was delivered to the junk mail or spam account and the date that TADL became aware of the request.
- E. The FOIA Coordinator or designee shall distribute the request to all persons within TADL who may maintain the records requested and such persons shall promptly return the information in their possession to the FOIA Coordinator or designee or provide written notice that they do not have any of the requested public records in their possession.
- F. The FOIA Coordinator or designee shall prepare the response, with review by counsel for TADL when appropriate, and in the event that a request is denied in whole or in part, the FOIA Coordinator or designee shall sign the written notice of denial.
- G. TADL is not obligated to create a record, list, compilation or summary of information that does not already exist. This includes analyzing, compiling, or summarizing existing information into a new format.
- H. In responding to requests, TADL will utilize its best efforts to locate the public records requested. TADL will search only the most likely locations, or in the case of a request for electronic public records, will utilize only normal and basic search tools for locating the public record(s) requested.
- I. The FOIA Coordinator shall respond within five (5) business days from the date that TADL received the FOIA Request as required by the FOIA. For purposes of compliance with the FOIA and this policy, “business days” for TADL are defined as Monday through Friday, but excluding any state holiday or business day TADL is otherwise closed due to a holiday. The response shall be in writing and may grant the request, deny the request, grant the request in part and deny the request in part, request clarification of the FOIA Request, request a deposit, or extend by not more than 10 business days the time to respond. The timeframes for responding may be extended by mutual agreement of the parties.
- J. Any response to a FOIA Request shall include a copy of or a link to these Procedures and Guidelines and TADL’s Public Summary of its FOIA Process. A response shall also detail the Requester’s appeal rights as set forth in these Procedures and Guidelines and the FOIA.
- K. Upon receipt of a FOIA request for documents, TADL shall halt any scheduled destruction of the documents pursuant to the TADL’s document retention schedule.

- L. In the event that the TADL receives a FOIA request for video surveillance images prepared, owned, used, in the possession of, or retained by TADL, TADL shall halt any scheduled destruction of the images or footage pursuant to the TADL's document retention schedule.

5. Exceptions.

- A. Routine Information. The following requests for information from TADL may be handled without a written FOIA Request:

- (1) A request for records that are routinely provided to the public by TADL;
- (2) Records that are readily available, may not be exempted from disclosure under the FOIA, and exist at the time of the request.

The fees described in Section 8 shall be applicable to such requests.

- B. Records on Website. TADL maintains an official internet presence. All public records available to the general public on that site, <http://www.tadl.org> are available to the public at no charge. If a verbal request for information is for information that an employee or official of TADL believes is available on the website, the employee or official will endeavor to inform the requestor about TADL'S website address.

6. Rules to Prevent Excessive and Unreasonable Interference with TADL'S Functions.

- A. Records may be personally examined only during normal business hours, i.e., between 9 am and 5 pm Monday through Friday.
- B. TADL's officers, agents, or employees shall be given ample opportunity to review files for exempt or privileged records prior to allowing public examination.
- C. Personal inspection and examination shall be conducted by the requesting person in the presence of an employee or designated agent of TADL and under the conditions the FOIA Coordinator or designee might require in order to prevent excessive and unreasonable interference with TADL's functions.
- D. In the event that the FOIA Coordinator or designee determines that a personal examination or inspection of the public record would cause excessive and unreasonable interference with TADL's functions regardless of any conditions imposed on the inspection and examination, the FOIA Coordinator or designee may deny a request to personally examine records within the time limits indicated in the FOIA provided that the nonexempt records are otherwise provided as required by the FOIA.
- E. A requesting person may ask that the public records be provided by non-paper physical media. The FOIA Coordinator shall provide such records to the requesting person by non-paper physical media provided that doing so would not interfere with TADL's functions by overloading the FOIA Coordinator's or TADL computer network and TADL has the

technological capability necessary to provide the records on the media requested.

- F. A requesting person shall not be permitted to personally monitor TADL's examination, review, or search for the public record requested or TADL's deletion and separation of exempt from non-exempt material.
7. Rules to Protect Records. To protect records from loss, unauthorized alteration, mutilation or destruction, the following rules are adopted to protect the records of TADL in the event of personal examination or inspection by the requesting person.
- A. Records are to remain at the location provided for review of the records by the FOIA Coordinator while being reviewed.
  - B. Records are not to be altered in any manner.
  - C. Pens are not allowed in record review rooms.
  - D. Copies of records are to be made by TADL's staff or its designee. Copy charges for such records shall apply.
  - E. For documentation purposes, TADL shall keep copies of or a list of documents released or copied.
  - F. Records may not be removed by the requesting person from binders.
  - G. Records within files shall be kept intact and in order.
  - H. Copies of TADL's computer or video records shall be made by TADL on the most reasonably economical media provided by TADL. Due to the significant risk of alteration of computer files, a requesting person shall not be allowed to personally examine or inspect TADL's electronic records, including, but not limited to, files on TADL's computer network or the email accounts of a TADL officer, board member, or employee, and video surveillance images.
  - I. Copies of tapes shall be made by TADL on tapes provided by TADL.
  - J. Records to be copied may be identified by the requesting person by tape flags or sticky notes, by separate written description, or by inserting loose paper between pages.
  - K. Copyrighted material shall not be photocopied.
  - L. The FOIA Coordinator may require that the requesting person's inspection and examination of the public records be monitored by an employee or agent of TADL.
8. Fees.
- A. Copies.

- 8.5” x 11” or 8.5” x 14 – 10 cents per sheet.
- Actual cost per page for larger prints.
- Digital Storage Devices - current cost.
- Tapes - current cost.
- If duplication requires outside services as determined by the FOIA Coordinator, and provided that such method is the most economical method - actual cost.

B. Faxing. Actual cost.

C. Mailing. Actual mailing, packaging and transportation costs shall be charged provided that such method is the most economical method and may include a charge for the least expensive form of postal delivery confirmation. No charge may be made for expedited shipping or insurance unless agreed to by the requester.

D. Labor.

Duplication and Publication.

Records Not Available on Website. The labor cost of the lowest paid employee, plus 32% to cover or partially cover the cost of fringe benefits, capable of duplicating and publishing the records, including making paper copies, digital copies, transferring digital public records to be provided or conveyed through the internet or other electronic means.

Records Available on Website. No charge unless the requester requests the record in a different format other than as published on website. In that case, the labor cost of the lowest paid employee, plus 32% to cover or partially cover the cost of fringe benefits, capable of duplicating and publishing the records, including making paper copies, digital copies, transferring digital public records to be provided or conveyed through the internet or other electronic means.

Labor costs for duplication and publication shall be charged in time increments of 5 minutes and all partial time increments shall be rounded down to the nearest time increment.

Search, Location, Examination and Redaction. When it is determined that the cost of search, examination, review, and redaction would result in unreasonably high costs to TADL, the labor cost of the lowest paid employee, plus 32% to cover or partially cover the cost of fringe benefits, capable of searching for, locating, and examining the public records.

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

- 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 required to respond are located within several locations.

- The available staffing to respond to the request.
- Any other similar factors identified by the FOIA Coordinator in responding to the particular request.

Labor costs shall be charged in time increments of 15 minutes and all partial time increments shall be rounded down to the nearest time increment.

Separation and Deletion of Material. The labor cost of the lowest paid employee, plus 32% to cover or partially cover the cost of fringe benefits, capable of separating and deleting exempt material. If no employee is capable of separating and deleting exempt information in a particular instance as determined by the FOIA Coordinator, TADL may charge for contracted labor for the separation and the deletion in an amount equal to actual costs or 6 times the State current minimum hourly wage, whichever is less.

In the event that the FOIA Coordinator anticipates that fees shall be charged for separation and deletion of material, the FOIA Coordinator shall provide the requesting person an estimate of the fees. Labor costs shall be charged in increments of 15 minutes and all partial time increments shall be rounded down to the nearest time increment.

Overtime. Overtime wages shall not be included in the calculation of any labor costs unless overtime is specifically agreed to by the requesting person.

- E. Public Records Routinely Authorized for Sale. Current fee schedule or cost.
- F. Costs set by Law. Documents which are required to be prepared and sold for a specific fee under Michigan or federal law shall be sold in accordance with the applicable Michigan or federal law.

The FOIA Coordinator or their designee is authorized to establish such other fees and charges in situations not covered by this policy, including fees and charges incurred by TADL in connection with allowing the requesting person to personally examine the records, which may include employee or staff time to monitor or assist the requesting person in reviewing the records if such monitoring or assistance causes an excessive or unreasonable interference with TADL's functions.

All estimates or fees charged shall be itemized on the standard form for detailed itemization adopted by TADL. The FOIA Coordinator shall utilize the most economical means of providing copies of public records that the FOIA Coordinator has the technological capability for. This shall include making double sided copies, utilizing the most economical electronic medium for copying the records the FOIA Coordinator has the technological capability for, and providing the records in the form requested by the requester when the FOIA Coordinator is capable of accommodating the request and doing so would not interfere with TADL's functions or cause damage to the records.

The requesting person shall pay for the public records prior to receipt of the public records. In the event that the requesting person fails to pick up the public records requested, the FOIA Coordinator shall retain a copy of the FOIA response and records compiled for at least 365 days from the date of the request.

Any fees shall be reduced by 5% per day up to a maximum of 50% for every day past the deadline to respond within the time periods established by the FOIA and these Procedures and Guidelines for every request properly designated as a request for records under the FOIA.

9. Deposits.

50% Deposit. The FOIA Coordinator may require a deposit from the person requesting the public record or series of public records if the fees will exceed \$50.00. The deposit shall not exceed one-half of the total fee for the request.

100% Deposit. The FOIA Coordinator may require a 100% deposit if the FOIA request is from a requester who has not paid for a previous FOIA fee in full to the public body. However, this 100% may be charged only if all of the conditions are present:

1. The prior fee was not more than 105% of the estimated fee.
2. The records from the prior request both contain all of the records requested in the prior request and are still in the public body's possession.
3. The records were offered to the requester by the public body subject to payment of the fees.
4. At least 90 days have passed since the records were offered in writing to the requester.
5. The requester cannot show proof of prior payment and continues to fail to pay for the prior request.
6. A detailed itemization form has been prepared for the current request.
7. Not more than 365 days have passed since the requester made the request for the request that has not been paid.

Any request for a deposit must include: (1) a detailed itemization of an estimate of the fees, (2) TADL's Freedom of Information Act Procedures and Guidelines or a link to the Procedures and Guidelines, (3) TADL's Public Summary of its Procedures and Guidelines or a link to the Public Summary, and (4) an estimate of how long it will take TADL to provide the records to the requester following receipt of the deposit.

If a deposit is requested, the date of receipt of the deposit shall be deemed to be the date of receipt of the FOIA Request and the requesting person expressly agrees to this by submitting a FOIA request.

10. Fee Waivers.

- A. Indigency. The first \$20.00 of any fee shall be waived for any person who is indigent. In order to demonstrate indigency, an individual must submit an affidavit specifying that the individual is indigent, receiving some type of public assistance or otherwise demonstrates their inability to pay, they have not received a fee waiver twice in the same calendar year as the request, and the individual is not requesting information on behalf of someone that is paying them to request the public records.
- B. Certain Non-Profits. The first \$20.00 of any fee shall be waived for nonprofit corporations

that are designated by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 or the Protection and Advocacy for Individuals with Mental Illness Act if the request is made on behalf of the organization or its clients, is made for a reason wholly consistent with the mission of the provisions of the Mental Health Code, and is accompanied by documentation of its designation by the State.

- C. Documents on Website. A fee shall not be charged for any public records requested that are available to the general public on TADL's internet site. If the information or a portion of the information requested is available on TADL's website, the FOIA Coordinator shall notify the requestor of its availability on the website and shall include, to the extent practicable, the webpage address of the information. In the event that requestor requests the information in another form, TADL may charge the fees set forth in the policy for providing such records.
- D. Public Interest. A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the TADL Board determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. The decision to waive the fee under this provision is completely discretionary with the TADL Board. Generally, such waivers will not be provided where the person requesting the information will be receiving directly or indirectly a financial benefit from the information provided regardless of whether the information has some public interest.

The TADL Board determines that it is in the public interest that video surveillance footage requested by law enforcement as defined by 1965 PA 203, MCL 28.601 to 28.615 shall be without charge when the video surveillance footage is asked for or provided in connection with an investigation by law enforcement into a crime or an alleged crime that has occurred or is alleged to have occurred in the Library or on Library property.

## 11. Appeals.

### A. Response to Request.

Head of Public Body. A requesting person, before filing an appeal with the Circuit Court pursuant to Section 10 of the FOIA, may file a written appeal to the TADL Board identifying the reason or reasons for reversal of the denial. The TADL Board shall respond to the written appeal not more than 10 business days after receiving a written appeal. The TADL Board shall be considered to receive the appeal at its next regular meeting following the filing of the written appeal.

The TADL Board may take any of the following actions in response to the filing of an appeal:

- a. Reverse the denial.
- b. Issue a written notice to the appellant affirming the denial.
- c. Reverse the denial in part and issue a written notice to the appellant affirming the



denial in part.

- d. If necessary due to unusual circumstances, issue a notice extending for not more than 10 business days the period during which the TADL Board may respond to the appeal.

B. Fees.

Head of Public Body. A requesting person, before filing an appeal with the Circuit Court pursuant to Section 10A of the FOIA, may file a written appeal of the fees charged by the TADL Board for a fee reduction identifying the reason or reasons the required fee exceeds the amount permitted under the FOIA and these Procedures and Guidelines. The TADL Board shall respond to the written appeal not more than 10 business days after receiving a written appeal. The TADL Board shall be considered to receive the appeal at its next regular meeting following the filing of the written appeal.

The TADL Board may take any of the following actions in response to the filing of an appeal:

- a. Waive the fee.
- b. Reduce the fee and issue a written determination indicating the basis of support for the remaining fee. The determination shall include a certification that the statements in the determination are accurate and the fee complies with these Procedures and Guidelines and the FOIA.
- c. Uphold the fee and issue a written determination indicating the basis of support for the fee. The determination shall include a certification that the statements in the determination are accurate and the fee complies with these Procedures and Guidelines and the FOIA.
- d. Issue a notice extending for not more than 10 (10) business days the period during which the TADL Board must respond to the appeal, including a detailed reason why the extension is necessary.

12. Exemptions. The FOIA Coordinator is authorized to exempt from disclosure a public record pursuant to Section 13 of the FOIA as allowed by and pursuant to the FOIA, and on appeal, the TADL Board is authorized to so exempt a public record.

13. Availability to Public. These Procedures and Guidelines and the Public Summary shall be available to the public at no cost. The Procedures and Guidelines and the Public Summary shall be posted on the TADL website.

These Procedures and Guidelines shall supersede and replace the TADL FOIA Policy 1.6 adopted October 14, 2010, as of July 1, 2015 and shall become effective on July 1, 2015. This policy shall in addition incorporate, as adopted by the board, the FOIA Public Summary and the FOIA Request Detailed Cost Itemization supplements and shall also become effective on July 1, 2015.

I hereby certify that the above Procedures and Guidelines were adopted on, March 18, 2021,

at a meeting of the Traverse Area District  
Library Board held virtually from Traverse  
City, Michigan.

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Board Secretary

**TRAVERSE AREA DISTRICT LIBRARY  
FREEDOM OF INFORMATION ACT  
PUBLIC SUMMARY**

The purpose of this document is to provide a summary of the Traverse Area District Library's (TADL) Freedom of Information process, fees, and information regarding filing an appeal of TADL's response and fees charged.

Filing a Freedom of Information Act Request with TADL.

In order to file a Freedom of Information Act (FOIA) request with TADL, a person needs to file a written request with the FOIA Coordinator, who is the Library Director. The FOIA Coordinator's contact information is [mhoward@tadl.org](mailto:mhoward@tadl.org), fax 231-932-8500, or 610 Woodmere, Traverse City, Michigan 49686. The request should clearly designate that the documents requested are being requested pursuant to the FOIA.

TADL considers records available under the FOIA to include writings prepared, owned, used, in the possession of, or retained by TADL in the performance of an official TADL function. Public records available under FOIA DO NOT include materials in the library collection that are publicly available according to TADL's circulation and holdings policies. These materials are available according to the applicable library policies and procedures.

Your request will be considered received on the date of receipt by the FOIA Coordinator if by mail, on the date after the email or the fax transmission if the request is forwarded to the FOIA Coordinator by those mediums. If for some reason the FOIA request is sent to TADL's junk mail account, the request will not be considered received until the request is discovered by TADL.

If you would like to request records that are created, issued, or disseminated on a regular basis by TADL, you will need to designate your request as a "subscription" for such records.

In requesting records, you may ask for copies of records or to search and examine TADL's records.

All timelines and fees will apply to either request.

If you ask to personally search and examine TADL's records, there are certain rules that have been established in order to prevent interference with the functions of TADL and to protect the records themselves. These include restrictions on the times the records may be available for examination, the need for an employee or agent of TADL to be present during the examination, and prohibitions on altering, removing, or moving the records.

Under some circumstances, a personal examination may be impossible, such as a personal examination of TADL's computer or electronic files. In those cases, you will be provided a copy of the records requested. In no case, will you be allowed to observe or examine TADL's search for, examination, review, or deletion and separation of exempt material.

You may also request the records in certain forms. If you would like your request to be provided in a particular form, please provide this information in your request. TADL's "default" method of supplying copies of records will be on paper. These requests will be accommodated by TADL to the extent TADL is feasibly capable of accommodating the request.

There are times when the information or records you are seeking do not require a FOIA request. These include requests for information or records routinely given and readily available that do not contain information that may be exempted under the FOIA as well as any and all records available on TADL's website, [www.tadl.org](http://www.tadl.org).

### Responding to Your Request.

Once a FOIA Request is received by TADL, the FOIA request will be immediately forwarded to the FOIA Coordinator who will then forward the request to all people within TADL that could or should have information or records responsive to the request. In the event that the record requested is scheduled for destruction according to TADL's record retention schedule, the destruction will be halted upon receipt of your request. In looking for records, TADL will utilize its best efforts to locate the public records requested. In doing so, TADL will search the most likely locations for such records. When electronic records are requested, TADL will utilize normal and basic search tools for locating the public records.

Sometimes, the FOIA Coordinator may need clarification regarding the public records requested. In this event, the FOIA Coordinator will contact you to ask for such clarification. The date upon which such clarification is provided will be considered the date that the request is received for purposes of the timelines set forth in the FOIA.

The FOIA Coordinator will respond to your request by granting the request, extending the time to respond, granting your request in part and denying in part, or denying your request. If your request is partially or wholly denied, the FOIA Coordinator will indicate in the response the reason for the denial or partial denial.

The FOIA Coordinator will respond to your request within the timelines provided by the FOIA, which is five (5) business days from the date of receipt. Business days for FOIA purposes are defined as Monday through Friday, but excluding state holidays and holidays for which TADL is

closed to the public. Sometimes, due to the nature of the request, the FOIA Coordinator may need to extend this time by 10 business days from the minimum five (5) business days. In the event that this happens, the FOIA Coordinator will provide you notice of this extension not later than 5 business days from the date the request was received. These timelines may be extended by mutual written agreement between you and TADL.

Each response shall include a link to TADL's FOIA Procedures and Guidelines and this Summary as well as a copy of a detailed itemization of the fees charged.

Please note, in responding to a request, TADL is not obligated to create a record, list, compilation or summary of information that does not already exist.

### Fees.

In most cases, you will likely be charged a fee for your request. Generally speaking, the fees charged will be the actual cost to TADL to respond to your request, including copying, faxing, and mailing costs. Regular or legal size pages are 10 cents per sheet. In charging these costs, TADL will utilize the most economical method possible, such as double sided copying or the most inexpensive form of media TADL is capable of utilizing.

Labor costs will also be charged. This includes labor for copying and transferring the records to a medium for your review. This also may include labor for searching, locating, and examining the public records where the request requires more time than usual to process the request. Factors that will be used to determine whether labor for searching, locating, and examining public records will be charged include 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 from various TADL departments or offices are necessary to respond to the request, available staffing to respond to the request, or any other similar factors identified by the FOIA Coordinator in responding to the particular request. The labor costs charged will be the hourly wage of the lowest paid employee capable of performing the work regardless of who did the work plus 32% to cover or partially cover fringe benefits.

Labor costs for separating and deleting exempt material may also be charged in the amount indicated above in the event that it will take more time than usual to process the request. However, sometimes it is necessary for TADL to engage a third person to do this work. In this case, you may be charged the lesser of the actual cost or six (6) times the State current minimum wage. Before being charged this amount however, we will let you know and provide you an estimate of the fees.

Overtime will not be charged unless you agree.

We will require you to pay the fees before providing you with the public records requested where you have requested copies of the record either in paper or other electronic form. Where you have requested examination, payment of the fees will be expected prior to your examination for any fees incurred up to that point and following your examination prior to receiving any copies of public records requested during the examination.

### Information Available on Website.

If you request in writing or verbally any records that are available on TADL's website, we will let you know where such records may be located. You will not be charged a fee for such information or records unless you request that the FOIA Coordinator provide you a copy of these records. In that case, you will be charged the hourly wage of the lowest paid employee capable of performing the work regardless of who did the work plus 32% to cover or partially cover fringe benefits.

### Deposits.

Sometimes it is necessary for us to ask for a deposit prior to proceeding with the request due to the estimated time and material in responding to the request. We may request a deposit in the event that the estimated fees will exceed \$50.00 in the amount of ½ of the estimated fees. Any request for a deposit will include a detailed itemization of the expected fees and costs, an estimate of how long it will take to fulfill the request, and an invitation to narrow or clarify your request, which may result in a reduction of the fees.

We also may request a 100% deposit in certain circumstances where you have not paid for prior FOIA requests. Before requesting a 100% deposit, we will provide you an opportunity to pay for the prior FOIA request and any request will include the information stated above.

When a deposit is requested, we will not consider the request received under the FOIA until the deposit is made.

### Fee Waivers.

There are several circumstances where the fees may be waived. These include demonstrated indigency, requests from certain non-profits, documents located on TADL's website, and where TADL determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public.

There are certain requirements that must be met to qualify for the indigency waiver and such waiver only applies to the first \$20.00 in fees. In order to qualify for the indigency waiver, you will be required to execute an affidavit indicating your inability to pay, that you have not already received two fee waivers in the past year, and that you are not requesting information on behalf of someone that is paying you to request the records.

There is a limited class of nonprofits that qualify for a waiver and, again, the waiver only applies to the first \$20.00 in fees.

A fee for records available on TADL's website will not be charged unless you ask the FOIA Coordinator to provide them in another form. In that case, the cost for covering or partially covering fringe benefits that will be added is 32%.

A "public interest" waiver is completely discretionary with the public body. Generally, such waivers will not be provided where the person requesting the information will be receiving directly

or indirectly a financial benefit from the information provided regardless of whether the information has some public interest.

### Exempt Information.

Sometimes information that you have requested will contain information that is exempt from disclosure under the FOIA. There are several exemptions under the FOIA. Unless certain information is required to be exempted under the FOIA, the FOIA Coordinator will determine in each case whether information that may be exempted under the FOIA will be exempted under the FOIA. In the event that some information contained in the records is exempt, but other information is not exempt, the public body will only remove those portions of the records that are exempt.

### Appeals.

You may appeal the FOIA Coordinator's response to your FOIA request or the amount of fees charged by TADL.

Please note, if you file an appeal to the TADL Board, the TADL Board is not considered to have received your appeal until the first regularly scheduled meeting of the Board following the date your appeal is filed.

### Response.

You may appeal the FOIA Coordinator's response either to TADL Board or the Circuit Court. If you are going to appeal to the TADL Board, you must do so in writing. You should indicate that it is a "FOIA Response Appeal" and the reason you are appealing the FOIA Response. The TADL Board will respond within 10 business days of receipt by doing one of the following:

1. Reverse the denial.
2. Uphold the denial.
3. Reverse the denial in part and uphold the denial in part.
4. Issue a notice extending for not more than 10 business days the time period for the head of the public body to respond.

You may also appeal to the Circuit Court in Grand Traverse County. However, the appeal must be filed within 180 days following TADL's final decision to deny or deny in part the request. If you prevail at the Circuit Court, the Circuit Court can order any records it determines to be improperly withheld to be disclosed. If you prevail in an action commenced in the Circuit Court, the Circuit Court will award you your reasonable attorney's fees. If you prevail in part, you may be awarded some of your attorney fees. If the Circuit Court finds that TADL acted arbitrarily and capriciously in failing to disclose the records as required by the FOIA and TADL's Procedures and Guidelines, the Court shall order TADL to pay a civil fine of \$1,000 to the general fund of the state treasury. In addition, the court shall award actual or compensatory damages and punitive damage in the amount of \$1,000 to you.

### Fees.

You may appeal the fees charged to you by TADL. You must do so in writing. You should indicate that it is a “fee appeal” and you should state the reasons you believe the fees do not comply with the FOIA or TADL’s Procedures and Guidelines. The TADL Board will respond within 10 business days of its receipt of your appeal by doing one of the following:

1. Waive the fee.
2. Reduce the fee.
3. Uphold the fee.
4. Extend the time to respond by not more than 10 business days.

If the TADL Board reduces the fee or upholds the fee, the TADL Board will provide you a certification that the determination is accurate and the fee complies with TADL’s Procedures and Guidelines.

You may also appeal to the Circuit Court in Grand Traverse County. You may not appeal to the Circuit Court until after the TADL Board makes a determination on your appeal. The appeal must be filed within 45 days after the TADL Board makes a determination with respect to your appeal. If the Court determines that TADL charged a fee in excess of the amount authorized by the FOIA or its Procedures and Guidelines, the Court will reduce the fee to a permissible amount. If the fee is reduced by 50% or more, the Court may, but is not required to, award you your attorney fees, costs, and disbursements. If the Court finds that TADL acted arbitrarily and capriciously in charging an excessive fee, the Court will order TADL to pay a civil fine of \$500 to the state general fund. The Court may also award punitive damages in the amount of \$500 in addition to actual and compensatory damages.

#### Willful and Intentional Violations.

If the Circuit Court finds in any action brought under the FOIA, that TADL acted willfully and intentionally in failing to comply with the FOIA, the Court shall order the payment of a civil fine of not less than \$2,500 or more than \$7,500 for each occurrence in addition to any other money TADL is ordered to pay. This fine will go into the State’s general fund.