

<b>SUBJECT</b> Freedom of Information Act Requests		<b>CHAPTER</b> 01	<b>SECTION</b> 02	<b>SUBJECT</b> 04
<b>CHAPTER</b> Administration		<b>SECTION</b> Compliance		
<b>WRITTEN BY</b> Lisa K. Morse	<b>REVIEWED BY</b>		<b>AUTHORIZED BY</b> PIHP Board	

**I. APPLICATION:**

- PIHP Board     
  CMH Providers     
  SUD Providers  
 PIHP Staff     
  CMH Subcontractors

**II. POLICY STATEMENT:**

It shall be the policy of Region 10 PIHP to implement the Freedom of Information Act (FOIA) as outlined below.

**III. DEFINITIONS: N/A**

**IV. STANDARDS:**

- A. The PIHP CEO appoints a designated staff as the Region 10 FOIA Contact.
- B. The Region 10 FOIA Contact shall provide guidance, as needed, to all staff and shall be the only person, other than the CEO, authorized to release information or not based on an exemption provided by law.
- C. If the Region 10 FOIA Contact needs legal consultation/advice on a FOIA request, he/she shall use designated consultant.
- D. Any appeals will be handled by the CEO.
- E. Accepts only written requests under the FOIA.
- F. Region 10 may charge a fee for providing a copy of a public record in accordance with the act. However, copies of public records may be furnished without charge or at a reduced charge if Region 10 determines that a waiver or reduction of fees is in the public interest (see Exhibit C.).

Further, a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request, to an individual who can furnish a notarized statement attesting that they are receiving public assistance, or if not receiving public assistance, stating facts showing inability to pay the cost because of indigent status. At the time the request is made, Region 10 may request a good faith deposit, if the estimated fee will exceed \$50.00. The deposit shall be for one-half the total fee. If the deposit is not received the request will not be processed.

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- G. Reproduction charge will be per page (one side). Fees will be charged at a per hour basis for the cost of copying, search, examination, review and the deletion and separation of exempt from non-exempt information (see Exhibit C).

Mailing costs shall be based on the U.S. Postal rates for the actual size and weight of the material sent.

When information is stored in a computer, costs shall be calculated as follows:

1. If a program already exists to retrieve the information, non-staff time costs are limited to the incremental costs that filling the requests generates. Thus, in addition to incremental consumable costs (paper, cards, etc.), machine time may only be charged if the costs of the services of a particular computer are paid by the agency based on an incremental charge to the agency for additional computer usage.
2. If a program does not already exist to retrieve the information, the request shall be denied under FOIA since the agency is not required to create or compile new documents. However, in denying the request because the information does not exist, the Region 10 FOIA Contact shall inform the requestor that the agency policy is to create and compile the information from currently stored data if the requestor pays the full actual cost of creating the document information.

## V. PROCEDURES

### **PIHP Staff**

1. Receives written FOIA request and immediately forwards to the PIHP FOIA Contact. Note: Requests can be made in person, in writing (See Exhibit A).

### **PIHP FOIA Contact**

2. Reviews the request for completeness and sufficiency.
3. Follows-up on deficient requests by contacting the requestor and requesting additional information.
4. Completes Exhibit B, Response to Request for Public Records, checking the applicable action taken.
5. Follows through on the request until completed, including extensions or any further action.
6. Forwards all materials to requestor within the timeframes, including an invoice for any payment necessary (see Exhibit C).

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7. Maintains FOIA request file by year for the agency (e.g., #04-xx, #04-xx).

VI. REFERENCES AND LEGAL AUTHORITY:

Freedom of Information Act, Act 442 of the Public Acts of 1976, as amended

VII. EXHIBITS:

- A. FOIA Request for Disclosure of Public Records
- B. Response to Request for Public Records – FOIA
- C. Invoice

# FOIA REQUEST FOR DISCLOSURE OF PUBLIC RECORDS

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**I am requesting  to examine  to receive a copy of the following:**

*To be completed  
by CMH:*

Copying \$ \_\_\_\_\_

Labor \$ \_\_\_\_\_

Mailing \$ \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

DESCRIPTION

# OF COPIES

DESCRIPTION	# OF COPIES

If the above may contain intrusive personal information, the reasons I wish to inspect or review copies of the above materials and the proposed use of the information is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I am receiving public assistance or am indigent.** I have attached proof of inability to pay and request that the first \$20.00 of the charge be deducted.

I understand that agencies of Region 10 PIHP have 10 additional days to fill my request due to diverse locations of the materials or large volume of the materials.

I also understand that if it is determined the materials which I have requested to review or copy may not be disclosed, I will receive a written denial, including the reasons for denial and explaining my right to appeal.

Signature of Requestor

Date

## RESPONSE TO REQUEST FOR PUBLIC RECORDS - F.O.I.A.

DEAR: \_\_\_\_\_ FOIA #: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

This is in response to your request dated \_\_\_\_\_, received in this office on \_\_\_\_\_,  
for  copies  inspection of the following record(s): \_\_\_\_\_

Your request for public records has been reviewed and the following action has been taken in compliance with the provision of the State of Michigan Freedom of Information Act. (Check the appropriate box or boxes, if more than one applies.)

- 1.  Request approved with the exception of the items that may be exempt pursuant to Sec. 13 of the Act. Request will be processed as soon as staff resources permit. (If this box is checked, you must provide another copy of this form when documents are forwarded to requestor and check either box 2a or 2b.)
- 2.a.  REQUEST APPROVED: Requested documents enclosed.
- b.  REQUEST APPROVED IN PART: Certain portions of this record which are exempt from disclosure have been separated or deleted from the enclosed documents. (See instructions on reverse.)
- c.  REQUEST DENIED: It has been determined by this agency that the record you have requested is exempt from disclosure based on the provisions of the Freedom of Information act (see instructions).
- d.  REQUEST DENIED: The record you requested does not exist within the records of this agency under the name or description given to us.
- e.  REQUEST DENIED: Your request does not describe the record sufficiently to enable us to determine what record you are seeking. You should submit a new request describing the record in greater detail.
- 3.  Specific nature of your request involves unusual circumstances which require an additional 10 business days to properly process your request as provided by Sec. 5(2)(d) of the Freedom of Information Act.  
Extension Due Date: \_\_\_\_\_

**UNDER THE FREEDOM OF INFORMATION ACT, SEC. 10. YOU HAVE THE RIGHT TO SEEK JUDICIAL REVIEW IF YOUR REQUEST HAS BEEN DENIED IN WHOLE OR PART: SEC. 10 OF THE ACT READS AS FOLLOWS:**

Action to compel disclosure; order for production of material, jurisdiction; burden of proof; private viewing of disputed record by court; contempt, SEC. 10 (1) If a public body makes a final determination to deny a request or a portion thereof, the requesting person may commence an action in the circuit court to compel disclosure of the public records. If the court determines that the public records are not exempt from disclosure, the court shall order the public body to cease withholding or to produce a public record or a portion thereof wrongfully withheld, regardless of the location of the public record. The circuit court for the county in which the complainant resides or has his principal place of business, or the circuit court for the county in which the complainant resides or has his principal place of business, or the circuit court for the county in which the public record or an office of the public body is located shall have jurisdiction to issue the order. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

**YOU ALSO HAVE THE RIGHT TO SEEK REVIEW FROM THE REGION 10 PIHP CHIEF EXECUTIVE OFFICER.**

Signature	Title	Date
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**DENIAL OF RECORDS: Denial is based on the following provision(s) of the Freedom of Information Act MCL 15,243 Sec. 13(1).  
(Check the box/boxes for the appropriate exemption.)**

- G (a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
- G (b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:
  - G (i) Interfere with law enforcement proceedings.
  - G (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.
  - G (iii) Constitute an unwarranted invasion of personal privacy.
  - G (iv) Disclose the identity of a confidential source, or if the record is compiled by a criminal law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.
  - G (v) Disclose law enforcement investigative techniques or procedures.
  - G (vi) Endanger the life or physical safety of law enforcement personnel.
- G 8 A public record which if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.
- G (d) Records or information specifically described and exempted from disclosure by statute.
- G (e) Information the release of which would prevent the public body from complying with 20 U.S.C. section 1232(g.).
- G (f) A public record or information described in this section which is furnished by the public body originally compiling, preparing or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remains applicable.
- G (g) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:
  - G (i) The information is submitted upon a promise of confidentiality by the public body.
  - G (ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.
  - G (iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision shall not apply to information submitted as required by law or as a condition of receiving a governmental contract, license or other benefit.
- G (h) Information or records subject to the attorney-client privilege.
- G (i) Information or records subject to the physician-patient, psychologist-patient, priest or Christian Science practitioner, or other privilege recognized by statute or court rule.
- G (j) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the time for the receipt of bids or proposals has expired.
- G (k) Appraisals of real property to be acquired by the public body until (i) an agreement is entered into; or (ii) 3 years has elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.
- G (l) Test questions and answers, scoring keys and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.
- G (m) Medical, counseling or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.
- G (n) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to the final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communications between officials and employees public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under the state law for purposes of section 8 (h) of Act No. 267 of the Public Acts of 1976, being section 15.268 of the Michigan Compiled Laws.
- G (o) Records of law enforcement communication codes, or plans for development of law enforcement personnel, which if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.
- G (p) Information which would reveal the exact location of archeological sites. The secretary of state may promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to provide for the disclosure of the location of archeological sites for purposes relating to the preservation or scientific examination of sites.
- G (q) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. The subdivision shall not apply after 1 year has elapsed from the time the public body completes the testing.
- G (r) Academic transcripts of an institution of higher education established under sections 5, 6, 7 of article 8 of the state constitutions of 1963, where the record pertains to a student who is delinquent in the payment of financial obligations to the institution.
- G (s) Records of any campaign committee including any committee that receives monies from a state campaign fund.
- G (t) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a police or sheriff's agency or department, the release of which would do any of the following:
  - G (i) Identify or provide a means of identifying an informer.
  - G (ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
  - G (iii) Disclose the personal address of telephone number of law enforcement officers or agents or any special skills that they may have.
  - G (iv) Disclose the personal address, or telephone numbers of family members, relatives, children, or parents of law enforcement officers or agents.
  - G (v) Disclose operational instructions for law enforcement officers or agents.
  - G (vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.
  - G (vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, or parents of law enforcement officers or agents.
  - G (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informer.
  - G (ix) Disclose personnel records of law enforcement agencies.
  - G (x) Identify or provide a means of identifying residences which law enforcement agencies are requested to check in the absence of their owners or tenants.

Comments: \_\_\_\_\_

Description of Information Deleted or Separated from the Public Record Requested: \_\_\_\_\_

(Name)  
(Address)

Dear (Name)

Attached please find the information requested on (Date) and received in this office on (Date).

Please review the information enclosed. If you have any questions you may direct them to my office.

Charges for the information are as follows:

Copy \$.10 per page	_____
Labor \$14.95 per hour	_____
Postage	_____
<b>Total Amount Due</b>	<b>\$_____</b>

Please remit payment to Region 10 PIHP. Be sure to include the F.O.I.A. number on your check.

Sincerely,

Cindy Clerical

Received from: \_\_\_\_\_ Date: \_\_\_\_\_

Check Number: \_\_\_\_\_ OR, Cash: \_\_\_\_\_ Amount: \_\_\_\_\_

cc: Region 10 PIHP CEO  
Region 10 PIHP CFO  
Administrative File