



Updated: 1/6/2023

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## FREEDOM OF INFORMATION ACT POLICY AND PROCEDURE

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### **Preamble: Statement of Principles**

It is the policy of Benzie 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. 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.

Benzie 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.

Benzie 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 Benzie 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.

### **Section 1: General Policies**

The Benzie County Board of Commissioners, acting pursuant to the authority at MCL 15.236, designates the County Administrator as the FOIA Coordinator for County records, with the exception of Law Enforcement records. The County Administrator shall accept and process written requests for the County's public records and approve denials, except for requests for Law Enforcement information, which shall be handled by the Sheriff's Office designated FOIA Coordinator.

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 Benzie County spam or junk-mail folder, the request is not deemed received until one day after the County Administrator first becomes aware of the request. The County Administrator shall note in a FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the County Administrator became aware of the request.

The County Administrator shall review County spam and junk-mail folders on a regular basis, which shall be no less than once a month.

The County Administrator 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.

Benzie 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 County Administrator (hereinafter may be referred to as 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.

This Procedures and Guidelines document and the County's Written Public Summary will be maintained on the County's website at: [www.benzieco.net](http://www.benzieco.net). A link to those documents will be provided in lieu of providing paper copies of those documents.

Benzie County will make this Procedures and Guidelines document and the Written Public Summary publicly available without charge, in response to requests made specifically for paper copies.

### **Section 2: Requesting a Public Record**

No specific form is required to submit a request for a public record. However, the FOIA Coordinator has made available a FOIA Request Form for use by the public. The FOIA Request Form may be printed from the website: [www.benzieco.net](http://www.benzieco.net); may be mailed in response to a request by telephone (231-882-0035) or by postal mail; emailed in response to a request sent to: [foia@benzieco.net](mailto:foia@benzieco.net); or picked up in person from the Office of the County Administrator.

Verbal requests for record shall not be accepted.

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

A person may request public records be provided on non-paper physical media, emailed or other otherwise provided to him or her in digital form in lieu of paper copies. The County will comply with the request when 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 Benzie County on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber. Some subscriptions may be available on the County's website, depending on the public record requested.

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 or designee will deny all such requests.

### **Section 3: Processing a Request**

Unless agreed to in writing by the person making the request, Benzie County will issue a response within five (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.

***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.

Access to these Procedures and Guidelines and the Written Public Summary will be provided to a FOIA requestor free of charge by providing linking information about the County's website at: [www.benzieco.net](http://www.benzieco.net). Paper copies will be provided without charge, if so requested by the FOIA requestor.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due (in a detailed itemization of allowable costs) and how the documents can be obtained (payment of fees, postal mailed, emailed, or faxed).

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, Benzie 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 this policy.

***When a request is denied or denied in part:***

If the request is denied or denied in part, the FOIA Coordinator (or designee) will issue a Notice of Denial which shall provide 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 office of the County Board of Commissioners or seek judicial review in the 19th Circuit Court; and
- 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 (or designee).

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. So as to protect County records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal County operations, requests to view public records require an appointment during normal business made through the FOIA Coordinator (or designee).

***Requests for certified copies:***

The FOIA Coordinator (or designee) 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 (or designee) 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 or designee has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The FOIA Coordinator (or designee) 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.

**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.
- 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 will add 40% 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 (six 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.

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 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 will 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.

### **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.

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. The affidavit must state this specifically.

An affidavit is a sworn statement. The FOIA Coordinator will 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 Clerk.

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 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 (i.e., the first regularly scheduled County Board of Commissioners meeting), the County Board of Commissioners will respond in writing by:

- Reversing the disclosure denial;
- Upholding the disclosure denial; or
- 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 19<sup>th</sup> 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 19<sup>th</sup> Circuit Court within 180 days after the County's final determination to deny the request.

If the court 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 Clerk.

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 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 19th 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.

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 Benzie 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 to these Policies and Guidelines.

These amended FOIA Policies and Guidelines become effective January 10, 2023.

#### **Section 11: Appendix of Benzie County FOIA Forms**

- Request for Public Records Form
- Detailed Cost Itemization Form
- Appeal of Denial of Records Form

Operational Policy: Freedom of Information Act Policy and Procedure

I, Tammy Bowers, duly appointed Clerk for the County of Benzie, Michigan, do hereby certify that the above policy was adopted by the Benzie County Board of Commissioners at a regular Board meeting held on \_\_\_\_\_ and that related policies are hereby rescinded.

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Tammy Bowers, Benzie County Clerk



**Consent to Non-Statutory Extension of County's Response Time**

I have requested a copy of records or a subscription to records or the opportunity to inspect records, pursuant to the Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, *et seq.* I understand that the County must respond to this request within five (5) business days after receiving it, and that response may include taking a 10-business day extension. However, I hereby agree and stipulate to extend the County's response time for this request until: \_\_\_\_\_ (month, day, year).

**Requestor's Signature**

**Date**

**Records Located on Website**

Benzie County administers and maintains an official internet presence. Public records available on that internet site at the time the request is made are exempt from any labor charges to redact.

If the FOIA coordinator knows or has reason to know that all or a portion of the requested information is available on its website, the County will notify the Requestor in its written response that all or a portion of the requested information is available on its website. The written response will include a specific webpage address where the requested information is available. On the detailed cost itemization form, Benzie County will separate the requested public records that are available on its website from those that are not available on the website and will inform the requestor of the additional charge to receive copies of the public records that are available on its website.

When the County has included the website address for a record in its written response to the Requestor and the Requestor thereafter stipulates that the public record be provided to him or her in a paper format or other form, including digital media, the County will provide the public records in the specified format (if the County has the technological capability) but will use a fringe benefit multiplier of 40%, not to exceed the actual costs of providing the information in the specified format.

**Request for Copies/Duplication of Records on County Website**

I hereby stipulate that, even if some or all of the records are located on the County website, I am requesting that Benzie County make copies of those records on the website and deliver them to me in the format I have requested above. I understand that FOIA fees will apply.

**Requestor's Signature**

**Date**

**Overtime Labor Costs**

Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the detailed cost itemization form.

**Consent to Overtime Labor Costs**

I hereby agree and stipulate to the County using overtime wages in calculating the following labor costs as itemized in the following categories:

1.  Labor to copy/duplicate      2.  Labor to locate      3a.  Labor to redact      3b.  Contract labor to redact  
6b.  Labor to copy/duplicate records already on County's website

**Requestor's Signature**

**Date**

**Request for Discount: Indigence**

A public record search will be made and a copy of a public record will be furnished without charge for the first \$20.00 of the fee for each request by an individual who is entitled to information under this act and who:

- 1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, **OR**  
2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.

If a Requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if any of the following apply:

- (i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year,  
(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

**Office Use:**    Affidavit Received    Eligible for Discount    Ineligible for Discount

I am submitting an affidavit and requesting that I receive the discount for indigence for this FOIA request:

**Requestor's Signature:**

**Date:**

**Request for Discount: Nonprofit Organization**

A public record search will be made and a copy of a public record will be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act, if the request meets all of the following requirements:

- (i) Is made directly on behalf of the organization or its clients.
- (ii) 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.
- (iii) Is accompanied by documentation of its designation by the state, if requested by the County.

**Office Use:**    Documentation of State Designation Received    Eligible for Discount    Ineligible

for Discount

I stipulate that I am a designated agent for the nonprofit organization making this FOIA request and that this request is made directly on behalf of the organization or its clients and 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:

**Requestor's Signature:**

**Date:**

County: Keep original and provide copies of both sides of each sheet, along with Public Summary, to Requestor at no charge.

**Benzie County**  
448 Court Place, Beulah, MI 49617  
Phone: 231-882-0035

**Detailed Cost  
Itemization**

## Freedom of Information Act Request Detailed Cost Itemization

Date: \_\_\_\_\_ Prepared for Request No.: \_\_\_\_\_ Date Request Received: \_\_\_\_\_

**The following costs are being charged / estimated in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to the County's FOIA Policies and Guidelines. If the County is seeking a 50% deposit prior to providing the public records sought, the estimate is itemized on this form, lines 1-5 below.**

If all or a portion of the requested information is available on the County's website, the County is required to tell you it is available on the website and, where practicable, include a specific webpage address where the information is available. In this case [www.benzieco.net](http://www.benzieco.net):

- None
- Some
- All

of the requested material can be found at the following webpage(s):

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If the webpage is all the information you need, it is provided without charge. If, however, you still wish to receive a copy of material from the webpage, please let us know. The FOIA charges will apply if the County is required to produce copies of material from the webpage.

Requestor has stipulated that some / all of the requested records that are already available on the County's website but requests they be provided in a paper or non-paper physical digital medium and acknowledges that providing the records in that format shall be subject to Benzie County's normal charges outlined below.

**1. Labor Cost to Locate:**

This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in conjunction with receiving and fulfilling a granted written request. **This fee is being charged because failure to do so will result in unreasonably high costs to Benzie County because of the nature of the request in this particular instance, specifically:** \_\_\_\_\_

The County will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in **15-minute time increments**; all partial time increments are rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ \_\_\_\_\_

Charge per ¼ hour: \$ \_\_\_\_\_

**OR**

Hourly Wage with Fringe Benefit Cost: \$ \_\_\_\_\_

Multiply the hourly wage by the percentage multiplier: 40% and add to the hourly wage for a total per hour rate.

Charge per ¼ hour: \$ \_\_\_\_\_

*[For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 40% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage].*

Overtime rate charged as stipulated by Requestor (*overtime is not used to calculate the fringe benefit cost*)

To figure the number of increments, take the number of minutes: \_\_\_\_\_, divide by 15-minute increments, and round down. Enter below:

Number of increments

x \_\_\_\_\_ =

1. Labor Cost

\$ \_\_\_\_\_

**2. Labor Cost for Copying / Duplication**

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

This will not be more than the hourly wage of the County's lowest-paid employee capable of necessary duplication or publication in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged in **15-minute time increments as set by the County Board of Commissioners** (*for example: 15-minutes or more*); all partial time increments will be rounded down. *If the number of minutes is less than one increment, there is no charge.*

Hourly Wage Charged: \$ \_\_\_\_\_

Charge per ¼ hour: \$ \_\_\_\_\_

**OR**

Hourly Wage with Fringe Benefit Cost: \$ \_\_\_\_\_

Multiply the hourly wage by the percentage multiplier: 40% and add to the hourly wage for a total per hour rate.

Charge per ¼ hour: \$ \_\_\_\_\_

*[For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 40% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage].*

Overtime rate charged as stipulated by Requestor (*overtime is not used to calculate the fringe benefit cost*)

To figure the number of increments, take the number of minutes: \_\_\_\_\_, divide by 15-minute increments, and round down. Enter below:

Number of increments

x \_\_\_\_\_ =

2. Labor Cost

\$ \_\_\_\_\_

**3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):**

*(Fill this out if using a County employee. If contracted, use No. 3b instead).*

The County will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

**This fee is being charged because failure to do so will result in unreasonably high costs to the County that are excessive and beyond the normal or usual amount for those services compared to the County's usual FOIA requests, because of the nature of the request in this particular instance, specifically:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

This is the cost of labor of a **County employee**, including necessary review, directly associated with separating and deleting exempt from nonexempt information. This shall not be more than the hourly wage of the **County's lowest-paid employee** capable of separating and deleting exempt from nonexempt information in this particular instance, regardless of whether that person is available or who actually performs the labor.

These costs will be estimated and charged **15-minute time increments**; all partial time increments will be rounded down. *If the number of minutes is less than 15, there is no charge.*

**Hourly Wage Charged: \$** \_\_\_\_\_

**Charge per ¼ hour: \$** \_\_\_\_\_

**OR**

**Hourly Wage with Fringe Benefit Cost: \$** \_\_\_\_\_

Multiply the hourly wage by the percentage multiplier: **40%** and add to the hourly wage for a total per hour rate.

**Charge per ¼ hour: \$** \_\_\_\_\_

*[For records already available on the County's website that Requestor has requested in a paper or non-paper digital medium, greater than the 50% limitation, not to exceed the actual costs may be used to calculate Fringe Benefit Costs to be added to the hourly wage].*

Overtime rate charged as stipulated by Requestor (*overtime is not used to calculate the fringe benefit cost*)

To figure the number of increments, take the *number of minutes*: \_\_\_\_\_, divide by *15-minute increments*, and round down. Enter below:

**Number of increments**

x \_\_\_\_\_ =

**3a. Labor Cost**

**\$** \_\_\_\_\_



**3b. Contracted Labor Cost for Separating Exempt from Non-Exempt (Redacting):**

*(Fill this out if using a contractor, such as the attorney. If using in-house employee, use No. 3a instead.)*

The County will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.

**This fee is being charged because failure to do so will result in unreasonably high costs to the County that are excessive and beyond the normal or usual amount for those services compared to the County's usual FOIA requests, because of the nature of the request in this particular instance, specifically:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

As this County does not employ a person capable of separating exempt from non-exempt information in this particular instance, as determined by the FOIA Coordinator, this is the cost of labor of a **contractor** (i.e.: outside attorney), including necessary review, directly associated with separating and deleting exempt information from nonexempt information. This will not exceed an amount equal to 6 times the state minimum hourly wage rate of \_\_\_\_\_ (currently \$8.90).

**Name of contracted person or firm:** \_\_\_\_\_

These costs will be estimated and charged in **15-minute time increments (must be 15-minutes or more)**; all partial time increments will be rounded down. *If the number of minutes is less than 15, there is no charge.*

**Hourly Cost Charged:** \$ \_\_\_\_\_ **Charge per increment:** \$ \_\_\_\_\_

To figure the number of increments, take the *number of minutes*: \_\_\_\_\_, divide by *15-minute increments*, and round down to: \_\_\_\_\_ increments. Enter below:

**Number of increments**  
 x \_\_\_\_\_ = **3b. Labor Cost**  
 \$ \_\_\_\_\_

**4. Copying / Duplication Cost:**

Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection *(for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection).*

**No more than the actual cost of a sheet of paper, up to maximum 10 cents per sheet for:**

- **Letter** (8 1/2 x 11-inch, single and double-sided): \_\_\_\_\_ cents per sheet
- **Legal** (8 1/2 x 14-inch, single and double-sided): \_\_\_\_\_ cents per sheet

**No more than the actual cost of a sheet of paper for other paper sizes:**

- **Other paper sizes** (single and double-sided): \_\_\_\_\_ cents / dollars per sheet

**Actual and most reasonably economical cost of non-paper physical digital media:**

- **Circle applicable:** Disc / Tape / Drive / Other Digital Medium **Cost per Item:** \_\_\_\_\_

The cost of paper copies is calculated as a total cost per sheet of paper. The fee **does not exceed** 10 cents per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. The County will utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

**Number of Sheets:**  
 x \_\_\_\_\_ = \$ \_\_\_\_\_  
 x \_\_\_\_\_ = \$ \_\_\_\_\_  
 x \_\_\_\_\_ = \$ \_\_\_\_\_  
**No. of Items:**  
 x \_\_\_\_\_ = \$ \_\_\_\_\_  
**4. Total Copy Cost**  
 \$ \_\_\_\_\_

**5. Mailing Cost:**

The County will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. Delivery confirmation is not required.

- The County **may** charge for the least expensive form of postal delivery confirmation.
- The County **does not** charge more for expedited shipping or insurance unless specifically requested by the requestor.\*

Actual Cost of Envelope or Packaging: \$ \_\_\_\_\_

Actual Cost of Postage: \$ \_\_\_\_\_ per stamp

\$ \_\_\_\_\_ per pound

\$ \_\_\_\_\_ per package

Actual Cost (least expensive) Postal Delivery Confirmation: \$ \_\_\_\_\_

\*Expedited Shipping or Insurance as Requested: \$ \_\_\_\_\_

\* Requestor has requested expedited shipping or insurance

Number of Envelopes or Packages:

x \_\_\_\_\_ = \$ \_\_\_\_\_

x \_\_\_\_\_ = \$ \_\_\_\_\_

x \_\_\_\_\_ = \$ \_\_\_\_\_

x \_\_\_\_\_ = \$ \_\_\_\_\_

x \_\_\_\_\_ = \$ \_\_\_\_\_

x \_\_\_\_\_ = \$ \_\_\_\_\_

Costs:

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

5. Total Mailing Cost

\$ \_\_\_\_\_

**Subtotal Fees Before Waivers, Discounts or Deposits:**

Estimated Time Frame to Provide Records:

\_\_\_\_\_ (days or date)

The time frame estimate is nonbinding upon the County, but the County is providing the estimate in good faith. Providing an estimated time frame does not relieve the County from any of the other requirements of this act.

- Cost estimate  
 Bill

- 1. Labor Cost to Locate: \$ \_\_\_\_\_
  - 2. Labor Cost for Copying: \$ \_\_\_\_\_
  - 3a. Labor Cost to Redact: \$ \_\_\_\_\_
  - 3b. Contract Labor Cost to Redact: \$ \_\_\_\_\_
  - 4. Copying/Duplication Cost: \$ \_\_\_\_\_
  - 5. Mailing Cost: \$ \_\_\_\_\_
- Subtotal Fees: \$ \_\_\_\_\_

**Waiver: 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 County 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.

All fees are waived **OR**  All fees are reduced by: \_\_\_\_\_%

Subtotal Fees After Waiver:

\$ \_\_\_\_\_

<p><b>Discount: <u>Indigence</u></b>  A public record search <b>will</b> be made and a copy of a public record <b>will</b> be furnished <b>without charge for the first \$20.00 of the fee</b> for each request by an individual who is entitled to information under this act and who:</p> <p>1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, <b>OR</b></p> <p>2) If not receiving public assistance, stating facts showing inability to pay the cost because of indigence.</p> <p>If a requestor is ineligible for the discount, the public body shall inform the requestor specifically of the reason for ineligibility in the public body's written response. An individual is ineligible for this fee reduction if <b>ANY</b> of the following apply:</p> <p>(i) The individual has previously received discounted copies of public records from the same public body twice during that calendar year, <b>OR</b></p> <p>(ii) The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. A public body may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.</p> <p style="text-align: right;"><input type="checkbox"/> <b>Eligible for Indigence Discount</b></p>	<p style="text-align: right;"><b>Subtotal Fees After Discount (subtract \$20):</b></p>	<p style="text-align: right;">\$ _____</p>
<p><b>Discount: <u>Nonprofit Organization</u></b>  A public record search <b>will</b> be made and a copy of a public record <b>will</b> be furnished <b>without charge for the first \$20.00 of the fee</b> for each request by 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 and the federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets <b>ALL</b> of the following requirements:</p> <p>(i) Is made directly on behalf of the organization or its clients.</p> <p>(ii) Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.</p> <p>(iii) Is accompanied by documentation of its designation by the state, if requested by the County.</p> <p style="text-align: right;"><input type="checkbox"/> <b>Eligible for Nonprofit Discount</b></p>	<p style="text-align: right;"><b>Subtotal Fees After Discount (subtract \$20):</b></p>	<p style="text-align: right;">\$ _____</p>
<p><b>Deposit: <u>Good Faith</u></b>  The County may require a good-faith deposit <u>before providing the public records to the Requestor</u> <b>if the entire fee estimate or charge authorized under this section exceeds \$50.00</b>, based on a good-faith calculation of the total fee. The deposit cannot exceed 1/2 of the total estimated fee. <b>Percent of Deposit:</b> _____%</p>	<p style="text-align: right;"><b>Date Paid:</b></p> <p style="text-align: right;">_____</p>	<p style="text-align: right;"><b>Deposit Amount Required:</b></p> <p style="text-align: right;">\$ _____</p>

**Deposit: Increased Deposit Due to Previous FOIA Fees Not Paid In Full**

After the County has granted and fulfilled a written request from an individual under this Act, if the County has not been paid in full the total amount of fees for the copies of public records that the County made available to the individual as a result of that written request, **the County may require an increased estimated fee deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual** if ALL of the following apply:

- (a) The final fee for the prior written request was not more than 105% of the estimated fee.
- (b) The public records made available contained the information being sought in the prior written request and are still in the County's possession.
- (c) The public records were made available to the individual, subject to payment, within the best effort estimated time frame given for the previous request.
- (d) Ninety (90) days have passed since the County notified the individual in writing that the public records were available for pickup or mailing.
- (e) The individual is unable to show proof of prior payment to the County.
- (f) The County calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.

The County **can no longer require an increased estimated fee deposit** from an individual if ANY of the following apply:

- (a) The individual is able to show proof of prior payment in full to the County, **OR**
- (b) The County is subsequently paid in full for the applicable prior written request, **OR**
- (c) Three hundred sixty-five (365) days have passed since the individual made the written request for which full payment was not remitted to the County.

**Percent Deposit Required:**  
\_\_\_\_\_ %

**Date Paid:** \_\_\_\_\_  
**Deposit Required:**  
\$ \_\_\_\_\_

**14. Late Response Labor Costs Reduction**

If the County does not respond to a written request in a timely manner as required under MCL 15.235(2), the County **will** do the following:

- (a) **Reduce the charges for labor costs** otherwise permitted by 5% for each day the County exceeds the time permitted for a response to the request, **with a maximum 50% reduction.**

**Number of Days Over Required Response Time:**  
\_\_\_\_\_

**Multiply by 5%**  
\_\_\_\_\_

**= Total Percent Reduction:**  
\_\_\_\_\_

**Total Labor Costs**  
\$ \_\_\_\_\_

**Minus Reduction**  
\$ \_\_\_\_\_

**= Reduced Total Labor Costs**  
\$ \_\_\_\_\_

**15. Balance Due (Deduct amount on Line 14 from amount on Line 13c)**

**Date Paid** \_\_\_\_\_

**Total Balance Due:**  
\$ \_\_\_\_\_

The Public Summary of the County's FOIA Procedures and Guidelines is available free of charge from:

Website: [www.benzieco.net](http://www.benzieco.net)  
Phone: 231-882-0035

Email: [foia@benzieco.net](mailto:foia@benzieco.net)  
Address: 448 Court Place, Beulah, MI 49617

**Request Will Be Processed, But Balance Must Be Paid Before Copies May Be Picked Up, Delivered or Mailed**

County: Keep original and provide copy of both sides, along with Public Summary, to Requestor at no charge.

**Benzie County**  
448 Court Place, Beulah, MI 49617  
Phone: 231-882-0035

Fee Appeal Form

**FOIA Appeal Form—To Appeal an Excess Fee**  
**Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.**

**Request No.:** \_\_\_\_\_ **Date Received:** \_\_\_\_\_ Check if received via:  Email  Fax  Other Electronic Method  
**Date of This Notice:** \_\_\_\_\_ **Date delivered to junk/spam folder:** \_\_\_\_\_  
*(Please Print or Type)* **Date discovered in junk/spam folder:** \_\_\_\_\_  
**Request for:**  Copy  Certified copy  Record inspection  Subscription to record issued on regular basis

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

**Delivery Method:**  Will pick up  Mail to address above  Email to address above  
 Deliver on digital media provided by the County: \_\_\_\_\_

**Record(s) You Requested:** *(Listed here or see attached copy of original request)* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Reason(s) for Appeal:**

The appeal must specifically identify how the required fee(s) exceed the amount permitted. You may use this form or attach additional sheets:

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

**Requestor's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**County Response:**

The County must provide a response within 10 business days after receiving this appeal, including a determination or taking one 10-day extension.

**County Extension:** We are extending the date to respond to your FOIA fee appeal for no more than 10 business days, until \_\_\_\_\_  
*(month, day, year)*. Only one extension may be taken per FOIA appeal.  
Unusual circumstances warranting extension: \_\_\_\_\_

If you have any questions regarding this extension, contact: \_\_\_\_\_

**County Determination:**  Fee Waived  Fee Reduced  Fee Upheld

Written basis for County determination: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Notice of Requestor's Right to Seek Judicial Review**

You are entitled under Section 10a of the Michigan Freedom of Information Act, MCL 15.240a, to appeal a FOIA fee that you believe exceeds the amount permitted under the County's written Procedures and Guidelines to the Benzie County Board of Commissioners or to commence an action in the 19<sup>th</sup> Circuit Court for a fee reduction within 45 days after receiving the notice of the required fee or a determination of an appeal to the County Board of Commissioners. If a civil action is commenced in court, the County is not obligated to compete processing the request until the Court resolves the fee dispute. If the Court determines that the County required a fee that exceeded the permitted amount, the Court shall reduce the fee to a permissible amount. *(See back of this form for additional information on your rights.)*

**Signature of FOIA Coordinator:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**FREEDOM OF INFORMATION ACT (EXCERPT)**  
**Act 442 of 1976**

**15.240a.added Fee in excess of amount permitted under procedures and guidelines or MCL 15.234.**

Sec. 10a.

(1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body 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 under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(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 section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 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 section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section 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 under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body 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.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

**History:** Add. 2014, Act 563, Eff. July 1, 2015