



Freedom of Information Act (“FOIA”) Frequently Asked Questions

1. What is the FOIA?

The [Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq.](#) (“FOIA” or the “Act”) establishes procedures to ensure every citizen’s right of access to government documents. Specifically, the FOIA establishes the right to inspect and receive copies of public records of public bodies, provided that the requested record is not exempt from disclosure under the terms of the Act or any other applicable law.

2. What is a public record under FOIA?

A public record is any record prepared, owned, and used, in the possession of, or retained by a public body (such as MDCR) in the performance of an official function. In essence, all records except those cited as exemptions are covered by the Act. This includes electronic media, paper, email, microfilm, audiotapes, videotapes, magnetic tapes, and disks (CDs/DVDs). A public record does not include computer software.

3. Who can make a FOIA request?

The FOIA provides that “persons” have a right to access public records. A “person” is defined as “an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity [except] an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.” MCL15.232(g)

4. How can I make a FOIA request?

Before making a request, first look to see if the information you are interested in is already publicly available. You can find a lot of relevant information on a range of topics on the MDCR’s website. If the information you want is not publicly available, you can submit a FOIA request by sending a written correspondence to the MDCR FOIA Office reasonably describing the public record(s) you seek. It is recommended that you include the words “FOIA” or “FOIA Request” in the request to assist the MDCR in providing a prompt response.

5. How do I submit a FOIA request to the MDCR?

Written requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the MDCR may be submitted to the MDCR FOIA Office by email, US mail, or fax to:

Email: MDCR-FOIA @michigan.gov

US Mail: Michigan Department of Civil Rights

Attn: FOIA Coordinator

3054 W. Grand Boulevard, Suite 3-600

Detroit, MI 48202

Fax: (313) 456-3721

*To ensure a prompt response, faxed requests should contain the term “FOIA” or “FOIA Request” on the first/cover page.

It is highly recommended that all correspondence regarding FOIA requests be sent electronically to MDCR-FOIA @michigan.gov to avoid delay in processing.

6. Is there a special form I have use to make a FOIA request?

There is no specific form that must be used to make a FOIA request. However, FOIA requests **must** include the following information:

- The Requestor’s complete name
- A valid phone number or electronic mail address
- A mailing address that meets United State Postal Service addressing standards.

Including the specific search terms and date range in the FOIA request will assist MDCR in conducting a search and retrieval of potentially responsive documents and may thereby reduce potential time and costs.

7. What can I ask for under the FOIA?

A FOIA request can be made for any public record prepared, owned, used, possessed or retained by the MDCR. You can also specify the format in which you wish to receive the records (ie. printed or electronic form). The MDCR will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format. The FOIA does not require the MDCR to create new records or to conduct research, analyze data, or answer questions when responding to FOIA requests. It is the MDCR’s policy not to create any documents for the purpose of fulfilling a FOIA request.

8. Are there any FOIA exemptions?

The FOIA statute contains several listed exemptions to the release of public records in MCL 15.243. The MDCR may exempt a public record (or part of a public record) from disclosure if it falls under one or more of such listed exemptions or if another statute protects the record from disclosure. If a requested record contains material that is exempt and other material that is nonexempt, the MDCR may disclose the nonexempt material and delete or redact the exempt material.

Please review the FOIA statute to determine if the public records you are seeking are exempt from disclosure.

9. How is a FOIA request processed?

Upon receipt of a written FOIA request, the MDCR will typically search for records in response to your request then assess whether the information requested is deemed a “public record”; whether the MDCR is in possession of the “public record”; and whether the requested information is protected from disclosure under any of the exemptions listed under the FOIA, or other applicable law.

After its review, the MDCR will respond to the requestor. If the MDCR requires additional information before it can begin to process your request, it will contact you at the email or phone number provided. If the request is granted, in full or in part, the MDCR may charge a fee to process the request. Fees are calculated using the procedures and guidelines and you will receive a detailed itemization of the fee. The MDCR will require you to pay a 50% non-refundable good faith deposit before it begins processing your request if it appears the total cost will exceed \$50.00. After you pay any deposit and the final balance due, the MDCR will produce non-exempt records in its possession that fall within the scope of your request and that legally may be disclosed to the public. The MDCR may also notify (and not charge) you that some of the records you have requested are publicly available on its website.

The MDCR will redact, or black out, any information protected from disclosure by one of the FOIA’s exemptions pursuant to MCL 15.243, or other applicable law. If the request is denied, in full or in part, the MDCR will notify you of the reasons for the denial and your right to seek a review or appeal of the response.

10. What will I receive in response to a FOIA request?

Once the MDCR has reviewed your request, it will send you a written response. MDCR has several options when responding to written requests for public records. It may:

- Grant the request;
- Issue a written notice denying the request;

- Grant the request in part and deny the request in part; or
- Issue a notice extending for not more than 10 business days the period during which the MDCR shall provide a response. MCL 15.235(2). The MDCR must respond with one of the other options after 10 business days pass.

If any part of the request is denied, the MDCR's response will:

- Include a description of what has been withheld or partially withheld;
- State the FOIA exemptions under which any information and/or documents are withheld; and
- Provide options for appealing a denial

11. How much does it cost to make a FOIA request?

There is no initial fee required to submit a FOIA request, but the FOIA permits public bodies (such as the MDCR) to charge a fee to process FOIA requests using a form to give you a detailed itemization of the costs involved. The MDCR may charge for the following costs:

- Labor costs for the search, location, and examination of public records;
- Labor costs for the review of public records and separation and deletion of exempt from nonexempt material;
- Nonpaper physical media costs;
- Duplication and publication costs;
- Labor costs for the duplication or publication of public records, including making paper copies, making digital copies, or transferring digital public records to be produced on nonpaper physical media or through electronic means;
- Actual costs of mailing; and
- Labor costs for monitoring an inspection of original records (Calculated using the hourly wage of the MDCR's lowest paid employee capable of monitoring the inspection)

The fee varies based on the type of record and the labor costs for retrieval and review of the documents. As such, the MDCR is unable to provide an estimate of the fee for the FOIA request until a request has been received. Once the MDCR receives your request, you will be notified if your request will require a payment or good faith deposit. You will have the opportunity to narrow your request in order to reduce the fees. No fee is charged for requests where costs are below the threshold set in the MDCR Procedures and Guidelines (\$10.00).

12. Is there a cost associated with inspecting (ie. viewing) records?

There is no charge for inspection of documents, although a fee will be charged if it is necessary to make a copy of a document to redact a portion that is exempt. There may also be a charge to supervise the inspection of the records.

13. How long will it take before I get a response?

The FOIA requires an initial response to your request, or a notice of an extension, within 5 business days. If an extension is taken, the MDCR has 10 additional business days for a total of 15 business days to provide a response to a request. The MDCR typically process requests in the order of receipt. The time it takes to respond to a request will vary depending on the complexity of the request and any backlog of requests already pending. A simple request can be processed faster by the MDCR than one that is complex. Simple requests are typically more targeted and seek fewer pages of records. Complex requests typically seek a high volume of material or require additional steps to process. Depending on the nature of your request, you may receive copies of existing nonexempt public records with your initial response. The MDCR FOIA Office is available to assist you with any question about the status of your request and any steps you can take to receive a quicker response.

14. How long do I have to pay a required good faith deposit?

A non-refundable good faith deposit, if required, must be paid within **45 days**, or the request is considered abandoned.

15. Am I able to inspect records onsite?

Yes. However, MDCR offices are currently open for onsite record view by appointment only.

16. Will the MDCR create a public record if one does not exist?

The FOIA does not require a public body to make a compilation, summary, or report of information, nor does it require a public body to create a new public record. It is the MDCR's policy not to create any documents for the purpose of fulfilling a FOIA request.

17. Can I submit a FOIA request to ask a question?

The FOIA provides a means for citizens to inspect or receive copies of public records. It is not a means to request answers to questions. You may find the answer to your question by searching the MDCR website or by contacting the Department directly.

18. Am I able to receive the records requested in my FOIA request the same day?

Due to the volume of FOIA requests received and the need to obtain documents from various sources, the MDCR does not have the ability to process same-day requests.

19. What if I am indigent and cannot afford to pay?

You may request a waiver of fees. Requestors that meet the indigency criteria, may submit an Affidavit of Indigency along with your request. The Affidavit of Indigency must include a statement that you are indigent and i) receiving public assistance, or ii) if not receiving public assistance, stating facts showing an inability to pay the cost due to indigence. If you qualify, the first \$20 of the fee will be waived. An individual is not eligible for a waiver if (1) the individual has previously received discounted copies of public records under MCL 15.234 from the MDCR twice during the same calendar year or (2) 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. An Affidavit of Indigency is available online and by request.

20. How do I file an appeal if I am denied a public record or a fee waiver?

FOIA appeals must be in writing and sent to the MDCR FOIA Appeals Officer by email or US mail to:

Email: MDCR-FOIAappeals@michigan.gov

US Mail: Michigan Department of Civil Rights

Attn: FOIA Appeals Officer

3054 W. Grand Boulevard, Suite 3-600

Detroit, MI 48202

21. Where can I find a copy of the MDCR's FOIA procedures and guidelines?

The MDCR's FOIA procedure and guidelines can be found at www.michigan.gov/mdcr/foia.