

ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE PROCEDURE

Date Issued **03/24**

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CHAPTER Administrative	CHAPTER 01	SECTION 002	SUBJECT 0025
SECTION Operations	SUBJECT Freedom of Information Act Requests		
WRITTEN BY Mike Caza	REVISED BY Joy Vittone	AUTHORIZED BY Tracey Pingitore	

I. APPLICATION:

- SCCCMHA Board
- SCCCMHA Providers & Subcontractors
- Direct Operated Programs
- Community Agency Contractors
- Residential Programs
- Specialized Foster Care

II. PURPOSE STATEMENT:

Consistent with the Michigan Freedom of Information Act (FOIA), MCL 15.231 et seq., it is the policy of the St. Clair County Community Mental Health Authority (SCCCMHA) that all persons, except those who are incarcerated, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees.

III. DEFINITIONS:

FOIA Coordinator: Pursuant to the authority at MCL 15.236, an individual designated by a public body to accept and process requests for public records under FOIA Act 442.

Indigent Individual: For the purpose of this policy, is an individual who furnishes a notarized statement attesting that they are receiving public assistance, or, if not receiving public assistance, stating facts showing an inability to pay costs related to a request under FOIA Act 442 because of indigence. The statement must include that the request is not being made in conjunction with outside parties in exchange for payment or other compensation.

Public body: A body that is created by state or local authority or is primarily funded by or through state or local authority. SCCCMHA is a public body.

Public record: A writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created.

Written Request: A writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

IV. STANDARDS:

- A. The Chief Operating Officer (COO) appoints a designated staff person as the SCCCMHA FOIA Coordinator.
- B. The SCCCMHA FOIA Coordinator shall provide guidance, as needed, to all staff and shall be the only person, other than the Chief Executive Officer (CEO) and/or COO, authorized to release information, or not, based on an exemption provided by law.
- C. If the SCCCMHA FOIA Coordinator needs legal consultation/advice on a FOIA request, they shall use COO or designee.
- D. Any appeals will be handled by the COO and/or CEO.
- E. A person requesting to inspect, copy, or obtain copies of a public record prepared, owned, used, possessed, or retained by SCCCMHA must do so in writing. The request must sufficiently describe a public record so as to enable SCCCMHA personnel to identify and find the requested public record.
- F. Written requests for public records may be submitted in person or by mail to the FOIA Coordinator at SCCCMHA. Requests may also be submitted electronically by facsimile or e-mail. Upon their receipt, requests for public records shall be promptly forwarded to the FOIA Coordinator for processing. If a request is received by facsimile, e-mail, or other electronic transmission, the request is deemed to have been received on the following business day.
- G. Junk or Spam Filters: If a written request is sent by electronic mail and delivered to the public body's spam or junk-mail folder, the request is not received until one (1) day after SCCCMHA first becomes aware of the written request. SCCCMHA shall note in its records both the time a written request is delivered to its spam or junk-mail folder and the time it first becomes aware of that request.
- H. A request from a person, other than an indigent, must include the requesting person's complete name, address, and contact information. For corporations or similar entities, a personal agent's same contact information must be provided. Additionally, the request must contain a valid phone number and e-mail address. Finally, the requestor's mailing address must conform with the US Postal Service requirements.
- I. A person making a request for a public record to stipulate that SCCCMHA's response be electronically mailed, if SCCCMHA has the technological capability to do so, or delivered by facsimile or first-class mail.
- J. Fees: SCCCMHA 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 SCCCMHA determines that a waiver or reduction of fees is in the public interest (see Exhibit A).

For an Indigent Individual, the first \$20.00 of the fee will be waived.

At the time the request is made, SCCCMHA may request a good faith deposit, if the estimated fee will exceed \$50.00. The deposit shall be for one-half the total estimated fee. If the deposit is not received the request will not be processed.

K. SCCCMHA may charge for the following costs:

1. Duplication costs: The charge will be per page and must 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. SCCCMHA shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.
2. Non-paper physical media costs will be calculated using the actual and most reasonably economical cost of computer discs, flash drives, and other digital and similar media provided.
3. Labor costs for copying, searching, examining, reviewing and the separation and deletion of exempt from non-exempt information will be charged at a per hour basis.
4. 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:

5. 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.
6. 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 SCCCMHA FOIA Contact shall inform the requestor that the agency policy / administrative procedure is to create and compile the information from currently stored data if the requestor pays the full actual cost of creating the document information.

L. The cost of labor associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor. Labor costs under this section may be estimated and charged in increments of SCCCMHA's choosing but all partial increments shall be rounded down.

M. The Public Summary of FOIA Policy and Procedures is available on the SCCCMHA website and copies are available free of charge at any SCCCMHA location. Additional information available on the SCCCMHA website include this policy and all SCCCMHA FOIA-related forms for those who wish to make a FOIA request and/or FOIA-related appeal in regard to request response(s) and/or request-related fees.

V. PROCEDURES:

Any SCCCMHA Staff

1. Receives written FOIA request and immediately forwards to the SCCCMHA FOIA Coordinator.

Note: Requests can be made in person, by form submission on the SCCCHMA website, or in writing (See Exhibit B, Admin Form: #01-0229).

SCCCMHA FOIA Coordinator

2. Reviews the request for completeness and sufficiency.
3. Follows-up on deficient requests by contacting the requestor and requesting additional information.
4. Responds to a request for a Public Record on Form #01-0230 (Exhibit C) within five business days after receiving the request, or within 15 business days if the statutorily permitted 10-business day extension is taken, by doing one of the following:
 - Granting the request;
 - Issuing a written notice denying the request;
 - Issuing a written notice granting the request in part and denying the request in part;
 - Issuing a notice requesting an additional 10 business days in which to respond to the request.
5. Provides a detailed itemization of the allowable costs incurred to process the request to the person making the request. The FOIA Coordinator will use the SCCCMHA's Cost Itemization Form (Exhibit A). Requires that payment be made in full for the allowable fees associated with responding to the request before the public record is made available.
6. Forwards all materials to requestor once invoice has been paid in full, when applicable, or within the required or agreed upon timeframes when no cost is involved. FOIA Coordinator must include free written copies of SCCCMHA's FOIA procedures and guidelines and the written summary with the written response. This requirement may be satisfied by providing the exact website location to SCCCMHA's FOIA procedures and guidelines and the written summary.
7. Cites a specific statutory basis for the denial of any requests by checking the appropriate box(es) on Response Form (Exhibit C) and informs the requesting party of their rights of appeal.
8. Maintains FOIA request file by year for the agency (e.g., FY22-001).
9. Keeps a record of all written FOIA records for at least one (1) year.

VI. REFERENCES:

- A. Freedom of Information Act (FOIA), 1976 PA, MCL 15.231 through 15.246.

VII. EXHIBITS:

- A. FOIA Detailed Cost Itemization (Admin Form : #01-0230A)

- B. FOIA Request (Admin Form: #01-0229)
- C. FOIA Response to Request for Public Record (Admin Form: #01-0230)
- D. FOIA Appeal Form – Appeal of Denial (Admin Form: #01-0230B)
- E. FOIA Appeal Form – Excess Fees (Admin Form: #01-0230C)

VIII. FORMS:

- A. [#0229 FOIA – Request for Disclosure of Public Records](#)
- B. [#0230 FOIA – Response to Request for Public Records](#)
- C. [#0230A FOIA – Detailed Cost Itemization](#)
- D. [#0230B FOIA – Appeal Form – Appeal of Denial](#)
- E. [#0230C FOIA – Appeal Form – Excess Fee](#)

IX. REVISION HISTORY:

Dates issued 05/85, 06/87, 10/89, 08/90, 08/92, 02/94,,05/97, 04/99, 04/01, 10/02, 10/04, 10/06, 10/08, 10/10, 05/11, 08/11, 01/13, 03/14, 03/15, 03/17, 05/18, 05/19, 06/20, 07/20, 11/20, 11/21, 11/22, 3/23.

Revised to correct typographical errors 7/24.

CMH: Keep original and provide copy of both sides to requestor at no charge.

St. Clair County Community Mental Health Authority
3111 Electric Avenue
Port Huron, MI 48060
Phone: (810) 985-9800

Public Summary available at: <https://scccmh.org/>

Request Form
Note: Requestors are not required to use this form. SCCCMHA may complete one for recordkeeping if not used.

FOIA Request for Public Records

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
Date and time delivered to junk/spam folder: _____
Date and time discovered in junk/spam folder: _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

(Please Print or Type)

Request for: Copy Certified copy Record inspection Subscription to records issued on a regular basis

Delivery Method: Will pick up Mail to address above E-mail to address above Deliver on CD provided by the SCCCMHA

Note: SCCCMHA is not required to provide records in a digital format or on digital media if SCCCMHA does not already have the technological capability to do so.

Describe the public record(s) as specifically as possible. You may use this form or attach additional sheets:

Consent to Non-Statutory Extension of SCCMHA'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 SCCCMHA must respond to this request within five (5) business days after receiving it, or six (6) business days after receiving it electronically, and that the response may include notice of a 10-business day extension to respond. However, I hereby agree and stipulate to extend SCCCMHA's response time for this request until: _____ (month, day, year).

Requestor's Signature	Date
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(Complete both sides)

Admin Form #01-0229
Revised Date 1/1/2023
Policy Ref: #01-002-0025

Records Located on Website

If SCCCMHA directly or indirectly administers or maintains an official Internet presence, any public records available to the general public on that site at the time the request is made are exempt from any labor charges to redact (i.e., separate exempt information from non-exempt information).

If the FOIA Coordinator knows or has reason to know that all or a portion of the requested information is available on its website, SCCCMHA must notify the requestor in its written response that all or a portion of the requested information is available on its website. The written response, to the degree practicable in the specific instance, must include a specific webpage address where the requested information is available. On the Detailed Cost Itemization Form, SCCCMHA must separate the requested public records that are available on its website from those that are not available on its website and must inform the requestor of the additional charge to receive copies of the public records that are available on its website.

If SCCCMHA 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/her/them in a paper format or other form, including digital media, SCCCMHA must provide the public record in the specified format (if SCCCMHA has the technological capability to do so) but may use SCCCMHA's fringe benefit multiplier of 40%, not to exceed the actual costs of the information in the specified format.

Request for Copies/Duplication of Records on SCCCMHA Website

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

Requestor's Signature: _____ Date: _____

Request for Discount: Indigence

A public record search shall be made and a copy of a public record shall 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 indigency.

If a requestor is ineligible for the discount, SCCCMHA shall inform the requestor specifically of the reason for ineligibility in SCCCMHA'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 SCCCMHA twice during the calendar year; **OR**
- 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. SCCCMHA 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.

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

Requestor's Signature: _____ Date: _____

Office Use: Affidavit Received Eligible for Discount Ineligible for Discount

Request for Discount: Nonprofit Organization

A public record search shall be made and a copy of a public record shall be furnished **without charge for the first \$20.00 of the fee** 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 Protection and Advocacy for Individuals with Mental Illness Act, if the request meets **ALL** of the following requirements:

- i) It is made directly on behalf of the organization or its clients; AND
- ii) It 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; AND
- iii) It is accompanied by documentation of the designation by the state.

I hereby certify 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: _____

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

St. Clair County Community Mental Health
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 GRANTED – NO CHARGE:** Requested documents enclosed along with copy of the original request detailing items requested
2. **REQUEST GRANTED – BALANCE DUE:** Request will be processed as requested in the original request attached. The balance due on the Detailed Cost Itemization must be paid before copies may be picked up, delivered, or mailed.
 - a. **REQUEST GRANTED IN PART AND DENIED IN PART:** Certain portions of this record which are exempt from disclosure have been removed and/or redacted from the enclosed documents. Please see the attached for the items being granted and those being removed and/or redacted. (See exemptions on pages 3 & 4.) You have the right to submit a written appeal to our Chief Operating Officer that specifically states the word “appeal” and identifies the reason(s) for reversal of this denial. Additionally, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in an amount not to exceed \$1,000.00.
 - b. **REQUEST GRANTED WITH REDACTIONS:** Certain portions of this record have been redacted for reason(s) in the exemption(s) selected on pages 3 & 4. Please see the attached for the records that have been granted and redacted. You have the right to submit a written appeal to our Chief Operating Officer that specifically states the word “appeal” and identifies the reason(s) for reversal of this denial. Additionally, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in an amount not to exceed \$1,000.00.
3. **REQUEST DENIED:** It has been determined by this agency that the record(s) you have requested is exempt from disclosure based on the provisions of the Freedom of Information act (see applicable exemption(s) on pages 3 & 4). You have the right to submit a written appeal to our Chief Operating Officer that specifically states the word “appeal” and identifies the reason(s) for reversal of this denial. Additionally, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in an amount not to exceed \$1,000.00.
4. **RECORD DOES NOT EXIST:** The record(s) you requested do not exist within the records of this agency under the name or description given to us. You have the right to submit a written appeal to our Chief Operating Officer that specifically states the word “appeal” and identifies the reason(s) for reversal of this denial. Additionally, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines SCCCMHA made an improper decision regarding the records sought, then you may be entitled to attorney fees and the potential damages set forth in the statute.
5. **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.
6. The specific nature of your request involves unusual circumstances which require an additional 10 business days to properly process your request. Pursuant to MCL 15.235(2) (d), we are extending the time to respond to your request. SCCCMHA will respond to your request on or before the _____ day of _____, _____.

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:

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request. (4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. 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 has venue over the action. 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.

(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 a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, 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 refusal or delay in disclosing or providing copies of a public record, the court shall order the public body 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.

YOU ALSO HAVE THE RIGHT TO SEEK REVIEW FROM THE CMH CHIEF OPERATING OFFICER and/or CHIEF EXECUTIVE OFFICER.

Signature

Title

Date

**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.)**

- (a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
- (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:
 - (i) Interfere with law enforcement proceedings.
 - (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.
 - (iii) Constitute an unwarranted invasion of personal privacy.
 - (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.
 - (v) Disclose law enforcement investigative techniques or procedures.
 - (vi) Endanger the life or physical safety of law enforcement personnel.
- (c) 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.
- (d) Records or information specifically described and exempted from disclosure by statute.
- (e) 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.
- (f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:
 - (i) The information is submitted upon a promise of confidentiality by the public body.
 - (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.
 - (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) Information or records subject to the attorney-client privilege.
- (h) Information or records subject to the physician-patient, psychologist-patient, priest or Christian Science practitioner, or other privilege recognized by statute or court rule.
- (i) 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.
- (j) 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.
- (k) 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.
- (l) 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.
- (m) 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.
- (n) 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.
- (o) 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.
- (p) 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.
- (q) 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.
- (r) Records of any campaign committee including any committee that receives monies from a state campaign fund.
- (s) 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:
 - (i) Identify or provide a means of identifying an informer.
 - (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.
 - (iii) Disclose the personal address of telephone number of law enforcement officers or agents or any special skills that they may have.
 - (iv) Disclose the personal address, or telephone numbers of family members, relatives, children, or parents of law enforcement officers or agents.
 - (v) Disclose operational instructions for law enforcement officers or agents.
 - (vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.
 - (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.
 - (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informer.
 - (ix) Disclose personnel records of law enforcement agencies.
 - (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.
- (t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:
 - (i) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.
 - (ii) The fact that an allegation was received by the department; the fact that the department did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

- (u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.
- (v) Records or information relating to a civil action in which the requesting party and the public body are parties.
- (w) Information or records that would disclose the Social Security number of an individual.
- (x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.
- (y) Records or information of measures designed to protect the security or safety of persons or property, or the confidentiality, integrity, or availability of information systems, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and cybersecurity plans, assessments, or vulnerabilities, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.
- (z) Information that would identify or provide a means of identifying a person that may, as a result of disclosure of the information, become a victim of a cybersecurity incident or that would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software.
- (aa) Research data on road and attendant infrastructure collected, measured, recorded, processed, or disseminated by a public agency or private entity, or information about software or hardware created or used by the private entity for such purposes.
- (2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

OTHER STATUTORY EXEMPTIONS:

- MCL 722.625 (Child Abuse Reporting)** requires that the identity of a person reporting a report of child abuse or neglect be kept confidential.
- MCL 780.758(3) (Crime Victim's Rights Act)** provides exemptions for personal information of a crime victim including images and photos. Please review the statute for a full list of the exemptions.
- MCL 28.247 (Reports of Sexually Motivated Crimes)** requires confidentiality of reports of sexually motivated crimes and juvenile offenses and crimes and juvenile offenses involving sexual conduct and limits disclosure to specifically named officials. The violation of the act is a misdemeanor with a possible year of imprisonment and/or a \$500.00 fine.

Comments: _____

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

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

St. Clair County Community Mental Health Authority
(SCCCMH)
3111 Electric Ave., Port Huron, MI 48060
(810) 985-8900
Website: <https://scccmh.org/>

Detailed Cost Itemization

Freedom of Information Act Request Detailed Cost Itemization

Date: _____ Prepared for Request No.: _____ Date Request Received: _____

<p>The following costs are being charged in compliance with Section 4 of the Michigan Freedom of Information Act, MCL 15.234, according to SCCCMHA FOIA Policies and Guidelines.</p>		
<p>1. Labor Cost for Copying / Duplication</p> <p>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.</p> <p>This shall not be more than the hourly wage of SCCCMHA'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.</p> <p>These costs will be estimated and charged in 15-minute time increments as set by SCCCMHA (for example: 15-minutes or more); all partial time increments must be rounded down. <i>If the number of minutes is less than one increment, there is no charge.</i></p> <p>Hourly Wage Charged: \$ _____ Charge per increment: \$ _____ OR Hourly Wage with Fringe Benefit Cost: \$ _____ OR Multiply the hourly wage by the percentage multiplier: _____ % (up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate. Charge per increment: \$ _____</p> <p>Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>	<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:</p> <p>Number of increments x _____ = _____</p>	<p>1. Labor Cost \$ _____</p>
<p>2. Labor Cost to Locate:</p> <p>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 SCCCMHA that are excessive and beyond the normal or usual amount for those services compared to SCCCMHA's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____</p> <hr/> <p>SCCCMHA 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.</p> <p>These costs will be estimated and charged in 15-minute time increments (must be 15-minutes or more); all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p> <p>Hourly Wage Charged: \$ _____ Charge per increment: \$ _____</p>	<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute</p>	

230A-1

<p style="text-align: center;"><u>OR</u></p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____</p> <p>Multiply the hourly wage by the percentage multiplier: _____% (up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.</p> <p style="text-align: center;"><u>OR</u></p> <p style="text-align: right;">Charge per increment: \$ _____</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>	<p style="text-align: center;"><u>OR</u></p> <p style="text-align: right;">Charge per increment: \$ _____</p> <p style="text-align: center;"><u>OR</u></p> <p style="text-align: right;">Charge per increment: \$ _____</p>	<p>increments, and round down. Enter below:</p> <p>Number of increments</p> <p>x _____</p> <p>= _____</p>	<p>2. Labor Cost</p> <p>\$ _____</p>
<p>3a. Employee Labor Cost for Separating Exempt from Non-Exempt (Redacting):</p> <p><i>(Fill this out if using an in house employee. If contracted, use No. 3b instead).</i></p> <p>SCCCMHA 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.</p> <p>This fee is being charged because failure to do so will result in unreasonably high costs to SCCCMHA that are excessive and beyond the normal or usual amount for those services compared to SCCCMHA's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____</p> <p>_____</p> <p>_____</p> <p>This is the cost of labor of an in house 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 in house 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.</p> <p>These costs will be estimated and charged in 15-minute time increments (must be 15-minutes or more); all partial time increments must be rounded down. <i>If the number of minutes is less than 15, there is no charge.</i></p>		<p>To figure the number of increments, take the number of minutes: _____, divide by 15-minute increments, and round down. Enter below:</p>	<p>3a. Labor Cost</p> <p>\$ _____</p>
<p>Hourly Wage Charged: \$ _____</p> <p style="text-align: center;"><u>OR</u></p> <p>Hourly Wage with Fringe Benefit Cost: \$ _____</p> <p>Multiply the hourly wage by the percentage multiplier: _____% (up to 50% of the hourly wage) and add to the hourly wage for a total per hour rate.</p> <p><input type="checkbox"/> Overtime rate charged as stipulated by Requestor (overtime is not used to calculate the fringe benefit cost)</p>	<p style="text-align: right;">Charge per increment: \$ _____</p> <p style="text-align: center;"><u>OR</u></p> <p style="text-align: right;">Charge per increment: \$ _____</p>	<p>Number of increments</p> <p>x _____</p> <p>= _____</p>	<p>3a. Labor Cost</p> <p>\$ _____</p>

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.)

SCCCMHA 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 SCCCMHA that are excessive and beyond the normal or usual amount for those services compared to SCCCMHA's usual FOIA requests, because of the nature of the request in this particular instance, specifically: _____

As SCCCMHA 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 shall not exceed an amount equal to 6 times the state minimum hourly wage rate of _____(currently \$10.10).

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 must 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 **must** be calculated as a total cost per sheet of paper. The fee **cannot 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. **SCCCMHA must** 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 _____
 = _____

No. of Items:
 x _____
 = _____

Costs:
 \$ _____
 \$ _____
 \$ _____
4. Total Copy Cost
 \$ _____

5. Mailing Cost:

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

- SCCCMA **may** charge for the least expensive form of postal delivery confirmation.
- SCCCMA **cannot** 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 _____
 = _____

Costs:

\$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
 \$ _____
5. Total Mailing Cost
 \$ _____

6a. Copying/Duplicating Cost for Records Already on SCCCMA's Website:
<https://scccmh.org/>

If SCCCMA 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 non-paper physical digital media, SCCCMA will provide the public records in the specified format and may charge copying costs to provide those copies.

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: _____

Requestor has stipulated that some / all of the requested records that are already available on the SCCCMA's website be provided in a paper or non-paper physical digital medium.

Number of Sheets:

x _____
 = _____
 x _____
 = _____
 x _____
 = _____

Costs:

\$ _____
 \$ _____
 \$ _____
 \$ _____

No. of Items:

x _____
 = _____

6a. Web Copy Cost

\$ _____

6b. Labor Cost for Copying/Duplicating Records Already on SCCCMHA's Website: <https://scccmh.org/>

This shall not be more than the hourly wage of SCCCMHA'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** (i.e.: 15-minutes or more); all partial time increments must be rounded down. *If the number of minutes is less than 15, there is no charge.*

Hourly Wage Charged: \$ _____

Charge per increment: \$ _____

OR

Hourly Wage with Fringe Benefit Cost: \$ _____

OR

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

Charge per increment: \$ _____

SCCCMHA may use a fringe benefit multiplier greater than the 50% limitation, not to exceed the actual costs of providing the information in the specified format.

Overtime rate charged as stipulated by Requestor

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 _____
= _____

6b. Web Labor Cost

\$ _____

6c. Mailing Cost for Records Already on SCCCMHA's Website: <https://scccmh.org/>

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:
x _____
= _____
x _____
= _____
x _____
= _____
x _____
= _____

Costs:
\$ _____
\$ _____
\$ _____
\$ _____
\$ _____
\$ _____
6c. Web Mailing Cost
\$ _____

Subtotal Fees Before Waivers, Discounts or Deposits:
Copying:

Cost estimate
 Bill

Estimated Time Frame to Provide Records:

_____ (days or date)

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

Fees:

1. Labor Cost for \$ _____
2. Labor Cost to Locate: \$ _____
3a. Labor Cost to Redact: \$ _____
3b. Contract Labor Cost to Redact: \$ _____
4. Copying/Duplication Cost: \$ _____
5. Mailing Cost: \$ _____
6a. Copying/Duplication of Records on Website: \$ _____
6b. Labor Cost for Copying Records on Website: \$ _____
6c. Mailing Costs for Records on Website: \$ _____
Subtotal \$ _____

<p>Waiver: <u>Public Interest</u> 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 SCCCMHA 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.</p> <p><input type="checkbox"/> All fees are waived OR <input type="checkbox"/> All fees are reduced by: _____%</p>	<p>Subtotal Fees After Waiver:</p>	<p>\$ _____</p>
<p>Discount: <u>Indigence</u> A public record search must be made and a copy of a public record must 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:</p> <p>1) Submits an affidavit stating that the individual is indigent and receiving specific public assistance, OR</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 ANY 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, OR</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><input type="checkbox"/> Eligible for Indigence Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p>Discount: <u>Nonprofit Organization</u> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee 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 ALL 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 SCCCMHA.</p> <p><input type="checkbox"/> Eligible for Nonprofit Discount</p>	<p>Subtotal Fees After Discount (subtract \$20):</p>	<p>\$ _____</p>
<p>Deposit: <u>Good Faith</u> SCCCMHA may require a good-faith deposit before providing the public records to the _____ requestor if the entire fee estimate or charge authorized under this section exceeds \$50.00, based on a good-faith calculation of the total fee. The deposit cannot exceed 1/2 of the total estimated fee. Percent of Deposit: _____%</p>	<p>Date Paid:</p> <p>_____</p>	<p>Deposit Amount Required:</p> <p>\$ _____</p>
<p>Deposit: <u>Increased Deposit Due to Previous FOIA Fees Not Paid In Full</u> After SCCCMHA has granted and fulfilled a written request from an individual under this act, if the</p>		

<p>SCCCMHA has not been paid in full the total amount of fees for the copies of public records that SCCCMA made available to the individual as a result of that written request, SCCCMHA 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:</p> <p>(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 SCCCMA'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 SCCCMA 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 SCCCMA. (f) SCCCMA calculates a detailed itemization, as required under MCL 15.234, that is the basis for the current written request's increased estimated fee deposit.</p> <p>SCCCMHA can no longer require an increased estimated fee deposit from an individual if ANY of the following apply:</p> <p>(a) The individual is able to show proof of prior payment in full to SCCCMA, OR (b) SCCCMA 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 SCCCMA.</p>	<p>Date Paid: _____</p>	<p>Percent Deposit Required: _____%</p> <p>Deposit Required: \$ _____</p>
<p>Late Response Labor Costs Reduction If SCCCMA does not respond to a written request in a timely manner as required under MCL 15.235(2), SCCCMA must do the following:</p> <p>(a) Reduce the charges for labor costs otherwise permitted by 5% for each day SCCCMA exceeds the time permitted for a response to the request, with a maximum 50% reduction, if EITHER of the following applies:</p> <p>(i) The late response was willful and intentional, OR</p> <p>(ii) The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or specifically included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy", or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.</p>	<p>Number of Days Over Required Response Time: _____</p> <p>Multiply by 5%</p> <p>= Total Percent Reduction: _____</p>	<p>Total Labor Costs \$ _____</p> <p>Minus Reduction \$ _____</p> <p>= Reduced Total Labor Costs \$ _____</p>
<p>The Public Summary of SCCCMA's FOIA Procedures and Guidelines is available free of charge from: Website: https://scccmh.org Email: FOIACoordinator@scccmh.org Phone: (810) 985-8900 Address: 3111 Electric Ave., Port Huron, MI 48060</p> <p style="text-align: center;">Request Will Be Processed, But Balance Must Be Paid Before Copies May Be Picked Up, Delivered or Mailed</p>	<p>Date Paid: _____</p>	<p>Total Balance Due: \$ _____</p>

(Form created by Michigan Townships Association, April 2015)

Public Body: Keep original and provide copy of both sides to requestor at no charge.

St. Clair County Community Mental Health
 Authority (SCCCMHA)
 3111 Electric Avenue
 Port Huron, MI 48060
 (810) 985-8900
 Website: <https://scccmh.org/>

Form #0230b

FOIA Appeal Form—To Appeal a Denial of Records

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: _____ **Date Received:** _____
Date of This Notice: _____

Name	Phone	
Firm/Organization	Fax	
Street	Email	
City	State	Zip

(Please Print or Type)

Request for: Copy Certified copy Record inspection Subscription to record issued on a regular basis
Delivery Method: Will pick up Mail to address above Email to address above Deliver on CD provided by SCCCMA

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

Reason(s) for Appeal:

The appeal must specifically identify the reason(s) you are seeking a reversal of the denial. You may use this form or attach additional sheets:

Requestor's Signature: _____ **Date:** _____

SCCCMA Response:

SCCCMA must provide a response within 10 business days after receiving this appeal, which will include a determination or a notice extending the period during which SCCCMA will respond to the this appeal by not more than 10 business days.

SCCCMA Extension: We are extending the date to respond to the appeal of your FOIA denial 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: _____

SCCCMA Determination:

Denial Reversed Denial Upheld Denial Reversed in Part and Upheld in Part

The following previously denied records will be released: _____

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal the denial of your FOIA request to the St. Clair County Circuit Court to compel disclosure of the requested records if you believe that they were wrongfully withheld from disclosure. If, after judicial review, the court determines that SCCCMA has not complied with MCL 15.235 in making a denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. See the back of this form for additional information on your rights.

Signature of COO : _____

Date: _____

FREEDOM OF INFORMATION ACT (EXCERPT)
Act 442 of 1976

MCL 15.240. Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

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

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. 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). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body 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 under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. 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 has venue over the action. 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.

(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 a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, 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 refusal or delay in disclosing or providing copies of a public record, the court shall order the public body 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.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015

Public Body: Keep original and provide copy of both sides to requestor at no charge.

St. Clair County Community Mental Health
Authority (SCCCMHA)
3111 Electric Ave., Port Huron, MI 48060
Phone: (810) 985-8900
Website: <https://scccmh.org/>

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:** _____

Date of This Notice: _____

(Please Print or Type)

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis

Delivery Method: Will pick up Mail to address above Email to address above Deliver on cd provided by SCCCMHA

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 by state law or under SCCCMHA's FOIA Procedures and Guidelines. You may use this form or attach additional sheets:

Requestor's Signature: _____ **Date:** _____

SCCCMHA Response:

SCCCMHA must provide a response within 10 business days after receiving this appeal, which will include a determination or a notice extending the period during which SCCCMHA will respond to the this appeal by not more than 10 business days.

SCCCMHA 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.

The reason(s) for this extension are as follows: _____
If you have any questions regarding this extension, please contact: _____.

SCCCMHA Determination: Fee Waived Fee Reduced to \$_____. Fee Upheld

Written basis for SCCCMHA 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 by state law or under SCCCMHA's FOIA Procedures and Guidelines to the Chief Executive Officer (COO) and/or Chief Executive Officer (CEO) or to commence an action in the St. Clair County 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 COO/CEO. If a civil action is commenced in circuit court, SCCCMHA is not obligated to complete processing the request until the court resolves the fee dispute. If the court determines that SCCCMHA required a fee that exceeded the permitted amount, the court shall reduce the fee to a permissible amount. See the back of this form for additional information on your rights.

Signature of COO: _____

Date: _____

Revised Date: 1/1/2023
Policy Ref: #01-002-0025

FREEDOM OF INFORMATION ACT (EXCERPT)
Act 442 of 1976

MCL 15.240a. 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