

Northwestern Michigan College (NMC)

Public Summary of FOIA Procedures and Guidelines

It is the public policy of this state that all persons (except those persons incarcerated in state or local correctional facilities) 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.

The people shall be informed so that they may fully participate in the democratic process.

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, the following is the Written Public Summary of Northwestern Michigan College's (NMC) FOIA Procedures and Guidelines relevant to the general public.

This is only a summary of NMC's FOIA Procedures and Guidelines. For more details and information, copies of NMC's FOIA Procedures and Guidelines are available at no charge at any College office and on NMC's website: nmc.edu/foia

1. How do I submit a FOIA request to NMC?

- A request must sufficiently describe a public record so as to enable NMC to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist NMC in providing a prompt response.
- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by NMC may be submitted on NMC's FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.
 - Any verbal request will be documented by NMC on NMC's FOIA Request Form.
 - No specific form to submit a written request is required. However a FOIA Request Form and other FOIA-related forms are available for your use and convenience on NMC's website at nmc.edu/foia and at the office of NMC's President.
- Written requests may be delivered to NMC in person or by mail:

Holly Gorton,
FOIA Coordinator, Northwestern Michigan College
1701 E. Front St.
Traverse City, Michigan 49686

- Requests may be faxed to: (231) 995-1680. To ensure a prompt response, faxed requests should contain the term "FOIA" or "FOIA Request" on the first/cover page.
- Requests may be emailed to: hgorton@nmc.edu. To ensure a prompt response, email requests should contain the term "FOIA" or "FOIA Request" in the subject line.

2. What kind of response can I expect to my request?

- Within 5 business days after receiving a FOIA request NMC will issue a response. If a request is received by fax or email, the request is deemed to have been received on the following business day. NMC will respond to your 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 NMC needs an additional 10 business days to respond, or
 - Issue a written notice indicating that the public record requested is available at no charge on NMC's website.
- If the request is granted, or granted in part, NMC will ask that payment be made for the allowable fees associated with responding to the request before the public record is made available.
- If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, NMC will require a deposit before processing the request.

3. What are NMC's deposit requirements?

- If NMC has made a good faith calculation that the total fee for processing the request will exceed \$50.00, NMC will require that you provide a deposit in the amount of 50% of the total estimated fee. When NMC requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request after you have paid your deposit.
- If NMC receives a request from a person who has not paid NMC for copies of public records made in fulfillment of a previously granted written request, NMC will require a deposit of 100% of the estimated processing fee before it begins to search for the public record for any subsequent written request 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 NMC's possession;
 - The public records were made available to the individual, subject to payment, within the best effort time frame estimated by NMC to provide the records;
 - Ninety (90) days have passed since NMC 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 NMC; and

- NMC has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- NMC will not require the 100% 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 NMC;
 - NMC is subsequently paid in full for all applicable prior written requests; or
 - Three hundred sixty five (365) days have passed since the person made the request for which full payment was not remitted to NMC.

4. How does NMC calculate FOIA processing fees?

The Michigan FOIA statute permits NMC to charge for the following costs associated with processing a request:

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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 (6 times the state minimum hourly wage)

A labor cost will not be charged for the 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 NMC. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to NMC

5. How do I qualify for an indigence discount on the fee?

NMC will discount the first \$20.00 of fees for a request if you submit an affidavit stating that you are:

- Indigent and receiving specific public assistance; or
- If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.

You agree

Within 10 business days of receiving the appeal NMC's President 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.

Whether or not you submitted an appeal of a denial to NMC's President, you may file a civil action in Grand Traverse Circuit Court within 180 days after NMC's final determination to deny your request. If you prevail in the civil action the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that NMC acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1,000.

Appeal of an Excess FOIA Processing Fee

If you believe that the fee charged by NMC to process your FOIA request exceeds the amount permitted by state law, you must first appeal to NMC's President by filing a written appeal for a fee reduction to the office of the NMC President.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. You may use NMC FOIA Appeal Form (To Appeal an Excess Fee), which is available at NMC [in the office of the President] and on NMC's website: nmc.edu/foia

Within 10 business days after receiving the appeal, NMC's President will respond in writing by:

- Waiving