ALCONA COUNTY COMMISSION ON AGING

Public Summary of FOIA Procedures and Guidelines

It is the policy of the Alcona County Commission on Aging (ACCOA) that all persons, except those incarcerated, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of entities that fall under the definition of a "public body," as that term is defined by section 2(h) of FOIA (Michigan Compiled Laws section 15.232(h)). According to that statute, a "public body" which is subject to the requirements of FOIA includes "[a]ny other body that is created by state or local authority or is primarily funded by or through state or local authority...." While ACCOA is not a body that is created by state or local authority, it does typically receive a portion of its funding by or through state or local sources. The percentage of such funding varies from time to time. Because ACCOA is subject to the requirements of FOIA only when it is being "primarily funded" by or through state or local authority, it shall hereafter be the policy and practice of ACCOA to adhere to the requirements of FOIA when ACCOA is being primarily funded by or through state or local authority at the time of the receipt of a FOIA request; however, ACCOA reserves the right to decline to respond to a FOIA request if, at the time of the FOIA request, ACCOA is not being primarily funded by or through state or local authority, within the meaning of section 2(h) of FOIA.

ACCOA's policy with respect to FOIA requests is to comply with State law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

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

This is only a summary of ACCOA's FOIA Procedures and Guidelines. For more details and information, copies of ACCOA's FOIA Procedures and Guidelines are available at no charge at the ACCOA offices and on ACCOA's website: www.alconaseniors.org.

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

- A request must sufficiently describe a public record so as to enable ACCOA to find it.
- A request from a person, other than an individual who qualifies as indigent under MCL 15.234(2)(a), must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards:

  JANE SMITH *(or ABC MOVERS)*
  1500 E MAIN AVE STE 201
  SPRINGFIELD VA 22162-1010

- Contact information must include a valid telephone number or electronic mail address.
- Please include the words "FOIA" or "FOIA Request" in the request to assist ACCOA in providing a prompt response.

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by ACCOA may be submitted on ACCOA'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 ACCOA on ACCOA'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 ACCOA's website at www.alconaseniors.org, and at the ACCOA offices located at 207 Church Street, Lincoln, Michigan 48742.

- Written requests may be delivered to the ACCOA offices in person or by mail: 207 Church Street, Lincoln, Michigan 48742.

- Requests may be faxed to: (989) 736-0634. 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: averyl@alconaseniors.org. 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, ACCOA 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. ACCOA 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 ACCOA 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 ACCOA's website

- If the request is granted, or granted in part, ACCOA 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, ACCOA will require a deposit before processing the request.

3. What are ACCOA's deposit requirements?

- If ACCOA has made a good faith calculation that the total fee for processing the request will exceed $50.00, ACCOA will require that you provide a deposit in the amount of 50% of the total estimated fee. When ACCOA 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 ACCOA receives a request from a person who has not paid ACCOA for copies of public records made in fulfillment of a previously granted written request, ACCOA 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 ACCOA's possession;
- The public records were made available to the individual, subject to payment, within the best effort time frame estimated by ACCOA to provide the records;
- Ninety (90) days have passed since ACCOA 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 ACCOA; and
- ACCOA has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.

- ACCOA 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 ACCOA;
  - ACCOA 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 ACCOA.

- If a deposit is not received by ACCOA within 48 days from the date that the notice of deposit requirement is sent, and if the requesting person has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requesting person and ACCOA is no longer required to fulfill the request. Notice of a deposit requirement must include notice of the date by which the deposit must be received, which date is 48 days after the date the notice is sent.

4. How does ACCOA calculate FOIA processing fees?

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

- Labor costs associated with copying or duplication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.

- Labor costs associated with searching for, locating and examining a requested public record, when failure to charge a fee will result in unreasonably high costs to ACCOA.

- Labor costs associated with a review of a record to separate and delete information exempt from disclosure, when failure to charge a fee will result in unreasonably high costs to ACCOA.

- The cost of copying or duplication, not including labor, of paper copies of public records. This may include the cost for copies of records already on ACCOA's website if you ask for ACCOA to make copies.

- The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on ACCOA's website if you ask for ACCOA to make copies.

- The cost to mail or send a public record to a requestor.

Labor Costs

- All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.

- Labor costs will be charged at the hourly wage of the lowest-paid ACCOA employee capable of doing the work in the specific fee category, regardless of who actually performs work.

- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. ACCOA may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.

- Overtime wages will not be included in labor costs unless agreed to by the requestor; overtime costs will not be used to calculate the fringe benefit cost.

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 ACCOA. Costs are unreasonably high when they are excessive and beyond the normal or usual amount for those services compared to ACCOA's usual FOIA requests, because of the nature of the request in the particular instance. ACCOA must specifically identify the nature of the unreasonably high costs in writing.

Copying and Duplication

A person making a request may stipulate that the public body's response be electronically mailed (email), delivered by facsimile (fax), or delivered by first-class mail, and ACCOA will comply unless ACCOA lacks the technological capability to provide an electronically mailed or facsimile response.

A person may request that public records be provided on non-paper physical media, emailed or other otherwise provided to him or her in digital form in lieu of paper copies. ACCOA will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

ACCOA must use the most economical method for making copies of public records, including using double-sided printing, if cost-saving and available.

Non-paper Copies on Physical Media

- The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will be charged only if ACCOA has the technological capability necessary to provide the public record in the requested non-paper physical media format.

Paper Copies

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed $.10 per sheet of paper.
- Copies for non-standard sized sheets paper will reflect the actual cost of reproduction.

Mailing Costs

- The cost to mail public records will use a reasonably economical and justified means.
- ACCOA may charge for the least expensive form of postal delivery confirmation.
- No cost will be made for expedited shipping or insurance unless you request it.

Waiver of Fees

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefitting the general public. The ACCOA Board of Directors may identify specific records or types of records it deems should be made available for no charge or at a reduced cost.

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

ACCOA 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 are **not** eligible to receive the $20.00 discount if you:

- Have previously received discounted copies of public records from ACCOA twice during the calendar year; or
- Are requesting information on behalf of other persons who are offering or providing payment to you to make the request.

An affidavit is a sworn statement. For your convenience, ACCOA has provided an Affidavit of Indigence for the waiver of FOIA fees on the back of ACCOA's FOIA Request Form, which is available on ACCOA's website: www.alconaseniors.org.

6. May a nonprofit organization receive a discount on the fee?

A nonprofit organization advocating for developmentally disabled or mentally ill individuals that is formally designated by the state to carry out activities under subtitle C of the federal developmental disabilities assistance and bill of rights act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, may receive a $20.00 discount if the request meets all of the following requirements in the Act:

- Is made directly on behalf of the organization or its clients.
- Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, 1974 PA 258, MCL 330.1931.
- Is accompanied by documentation of its designation by the state, if requested by the public body.

7. How may I challenge the denial of a public record or an excessive fee?

Appeal of a Denial of a Public Record
If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may appeal to the ACCOA Board of Directors by filing a written appeal of the denial with the office of the ACCOA FOIA Coordinator.

The appeal must be in writing, specifically state the word "appeal," and identify the reason or reasons you are seeking a reversal of the denial. You may use the ACCOA FOIA Appeal Form (To Appeal a Denial of Records), which is available on ACCOA's website: www.alconaseniors.org.

The ACCOA Board of Directors is not considered to have received a written appeal until the first regularly scheduled ACCOA Board of Directors meeting following submission of the written appeal. Within 10 business days of receiving the appeal the ACCOA Board of Directors 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 the ACCOA Board of Directors, you may file a civil action in the Alcona County Circuit Court within 180 days after ACCOA'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 ACCOA 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 ACCOA to process your FOIA request exceeds the amount permitted by state law, you must first appeal to the ACCOA Board of Directors by filing a written appeal for a fee reduction to the office of the ACCOA FOIA Coordinator.

The appeal must specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. You may use the ACCOA FOIA Appeal Form (To Appeal an Excess Fee), which is available at the ACCOA offices and on ACCOA's website: www.alconaseniors.org.

The ACCOA Board of Directors is not considered to have received a written appeal until the first regularly scheduled ACCOA Board of Directors meeting following submission of the written appeal. Within 10 business days after receiving the appeal, the ACCOA Board of Directors will respond in writing by:

- Waiving the fee;
- Reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee;
- Upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or
- Issuing a notice detailing the reason or reasons for extending for not more than 10 business days the period during which the ACCOA Board of Directors will respond to the written appeal.

Within 45 days after receiving notice of the ACCOA Board of Directors' determination of the processing fee appeal, you may commence a civil action in the Alcona County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the ACCOA Board of

Directors acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of $500.