

Freedom of Information Act Resolution

WHEREAS, P.A. 442 of 1976 (Michigan Freedom of Information Act) provides public access to certain public records of a public body; and

WHEREAS, Section 4 of the Michigan Freedom of Information Act permits a public body to charge a fee for a public record search, necessary copying of a public record for inspection, or for providing a copy of a public record; and

WHEREAS, Section 4 (3) of the Michigan Freedom of Information Act provides for establishing and publishing procedures and guidelines regarding the charging of fees; and

WHEREAS, the Board of Trustees wishes to update its resolution regarding procedures and guidelines approved April 22, 1977;

THEREFORE, BE IT RESOLVED that the following procedures and guidelines be adopted and established concerning fees to be charged and collected for processing requests and providing copies of public records made pursuant to the Michigan Freedom of Information Act:

(1) Western Michigan University may charge a fee for a public record search, the necessary copying of a public record for inspection, or for providing a copy of a public record. Subject to subsections (3) and (4) of the Michigan Freedom of Information Act (FOIA), the fee shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 of FOIA. 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 it is determined 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.

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 to an individual who is entitled to information under FOIA and who submits an affidavit stating that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. Form affidavits regarding inability to pay as provided for in FOIA for individuals requesting waiver of fees for furnishing records under FOIA shall be available in the office of the Freedom of Information Act Officer.

(2) At the time a request is made a good faith deposit may be required from the person requesting the public record or series of public records, if the fee authorized under this section exceeds \$50.00. The deposit shall not exceed 1/2 of the total fee.

(3) In calculating the cost of labor incurred in duplication and mailing and the cost of examination, review, separation, and deletion under subsection (1), not more than the hourly wage of the lowest paid University employee capable of retrieving the information necessary to comply with a request under FOIA shall be charged. Fees shall be uniform and not dependent

upon the identity of the requesting person. The most economical means available shall be utilized for making copies of public records. A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 of FOIA unless failure to charge a fee would result in unreasonably high costs to the University because of the nature of the request in the particular instance, and the nature of these unreasonably high costs is identified.

(4) These procedures and guidelines do not apply to public records prepared under an act or statute specifically authorizing the sale of those public records to the public, or if the amount of the fee for providing a copy of the public record is otherwise specifically provided by an act or statute.

(5) The President of Western Michigan University and his/her FOIA coordinator designate acting on his/her behalf in accepting and processing requests for the University's public records and approving denials under FOIA are each further authorized to amend these procedures and guidelines in accordance with any applicable changes in the law or technology, and to also establish and publish additional or revised guidelines and procedures, as either of them deem necessary or appropriate to provide and update information regarding current fees and costs that are consistent with applicable law.

(Approved by Board of Trustees June 13, 2008)