

ALLEGAN COUNTY COMMUNITY MENTAL HEALTH AUTHORITY'S WRITTEN PUBLIC SUMMARY OF FOIA POLICY 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.

Consistent with the Michigan Freedom of Information Act (FOIA), Public Act 442 of 1976, as amended, the following is the Written Public Summary of Allegan County Mental Health Authority's (ACCMHS) FOIA Policy and Guidelines relevant to the general public. **This is only a summary** of the FOIA Policy and Guidelines. For more details and information, copies of the FOIA Policy Guidelines and are available at no charge at ACCMHS' office 3283 122nd Avenue, Allegan, MI 49010 and are also on the agency website www.accmhs.org under "Resources" tab.

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

- A request must sufficiently describe a public record so as to enable ACCMHS to find it.
- Please include the words "FOIA" or "FOIA Request" in the request to assist ACCMHS in providing a prompt response.
- Requests to ACCMHS may be submitted on ACCMHS' FOIA Request Form, in any other form of writing (letter, fax, email, etc.), or by verbal request.
 - Any verbal request will be documented by ACCMHS on the ACCMHS' 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 at www.accmhs.org under "Resources" tab and at the Allegan County Community Mental Health Authority, 3283 122nd Avenue, Allegan, MI 49010.
- Written requests may be delivered to ACCMHS in person or by mail:
FOIA Coordinator
Allegan County Community Mental Health Authority
3283 122nd Avenue
Allegan, MI 49010
- Requests may be faxed to: (269) 686-5202. 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: FOIA@accmhs.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 of receipt of a FOIA request ACCMHS will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day. ACCMHS will respond to your request in one of the following ways:
 - Grant the request.

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- 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 ACCMHS needs an additional 10 business days to respond.
- Issue a written notice indicating that the public record requested is available at no charge on ACCMHS' website www.accmhs.com.
- If the request is granted, or granted in part, ACCMHS 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, ACCMHS will require a deposit before processing the request.

3. What are ACCMHS' fee deposit requirements?

- If ACCMHS has made a good faith calculation that the total fee for processing the request will exceed \$50.00, ACCMHS will require that you provide a deposit in the amount of 50% of the total estimated fee. When ACCMHS requests the deposit it will provide you a non-binding best efforts estimate of how long it will take to process the request following receipt by ACCMHS of your deposit.
- If ACCMHS receives a request from a person who has not paid ACCMHS for copies of public records made in fulfillment of a previously granted written request, ACCMHS 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 ACCMHS' possession;
 - the public records were made available to the individual, subject to payment, within the time frame estimated by ACCMHS to provide the records;
 - 90 days have passed since ACCMHS 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 ACCMHS; and
 - ACCMHS has calculated an estimated detailed itemization which is the basis for the current written request's increased fee deposit.
- ACCMHS 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 ACCMHS;
 - the Authority is subsequently paid in full for all applicable prior written requests; or
 - 365 days have passed since the person made the request for which full payment was not remitted to ACCMHS.

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4. How does ACCMHS calculate FOIA processing fees?

The Michigan FOIA statute permits ACCMHS 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 ACCMHS.
- 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 ACCMHS.
- 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 ACCMHS' website www.accmhs.org if you ask ACCMHS 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 ACCMHS' website www.accmhs.org if you ask ACCMHS 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.
- Labor costs will be charged at the hourly wage of the lowest-paid ACCMHS 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.
- Contracted labor costs will be charged at the hourly rate of 6 times the state minimum wage, as adjusted. This rate is currently \$48.90/hour.

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

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Copying, Duplication and Mailing Costs

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

- **Non-paper 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 only be assessed if ACCMHS 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 will reflect the actual cost of reproduction.
- **Mailing Costs**
 - The cost to mail public records will use a reasonably economical and justified means.
 - ACCMHS may charge for the least expensive form of postal delivery confirmation.
 - No cost will be made for expedited shipping or insurance unless requested.

5. How do I qualify for a waiver or discount on the fee?

Waiver or reduction

- The cost of the search for and copying of a public record may be waived or reduced if in the sole discretion of the FOIA Coordinator a waiver or reduction of the fee is in the public interest because it can be considered as primarily benefiting the public. Allegan County Community Mental Health Authority 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.

Indigence discount

- ACCMHS will waive 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 waiver if you:
 - have previously received discounted copies of public records from ACCMHS 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.

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- An affidavit is sworn statement. For your convenience, ACCMHS has provided an Affidavit of Indigence for the waiver of FOIA fees, which is available at www.accmhs.org.

Nonprofit discount

- ACCMHS will waive the fee for an nonprofit organization which meets all of the following conditions:
 - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act;
 - the request is made directly on behalf of the organization or its clients;
 - the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and
 - the request is accompanied by documentation of the organization's designation by the State

6. 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 file an appeal of the denial with the Allegan County Community Mental Health Authority Board of Directors. 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. ACCMHS may create a FOIA Appeal Form, which, if created, will be available on ACCMHS' website www.accmhs.org.

Within 10 business days of receiving the appeal the Allegan County Community Mental Health Authority 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 Board of Directors, you may file a civil action in the Allegan County Circuit Court within 180 days after ACCMHS' final determination to deny your request. Should you prevail in the civil action the Court will award you reasonable attorneys' fees, costs and disbursements. If the Court determines that ACCMHS acted arbitrarily and capriciously in refusing to disclose or provide a public record, the Court shall award you damages in the amount of \$1000.00

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Appeal of an Excessive FOIA Processing Fee

If you believe that the fee charged by ACCMHS to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a fee reduction to the Allegan County Community Mental Health Authority Board of Directors. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. ACCMHS may create a FOIA Fee Appeal Form, which, if created, will be available on ACCMHS' website www.accmhs.org.

Within 10 business days after receiving the appeal, the Allegan County Community Mental Health Authority 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 Allegan County Community Mental Health Authority Board of Directors will respond to the written appeal.

Within 45 days after receiving notice of the Board of Directors' determination of the processing fee appeal, you may commence a civil action in the Allegan 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 ACCMHS acted arbitrarily and capriciously by charging an excessive fee, Court may also award you punitive damages in the amount of \$500.00.

Need more details or information?

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