



Michigan's Freedom of Information Act

- What it means to Conservation Districts -

Training Module 6



What You'll Learn In This Module

- | What is the Michigan Freedom of Information Act (F.O.I.A.)?
- | To whom does the Act pertain to?
- | Who is exempt from the Act?
- | What kind of information is covered by the Act?
- | What kind of information is exempt from the Act?
- | How are F.O.I.A. requests made?
- | How do Districts respond to F.O.I.A. requests?



Discussion Questions

- | What is the purpose of the Freedom of Information Act?
- | Why does it apply to Conservation Districts?
- | Name several types of public documents your District has that are open to F.O.I.A.
- | Who cannot make a F.O.I.A. request?
- | How many days does your District have to respond to a F.O.I.A. request?
- | Can a F.O.I.A. request be denied?



What is F.O.I.A.

The Michigan Freedom of Information Act (F.O.I.A.) establishes procedures to ensure every citizen's right of access to government documents. The Act establishes the right to inspect and receive copies of **public records** of state and local government bodies.

Since Conservation Districts are local units of state government, they must abide by F.O.I.A.



Others Who Must Abide By F.O.I.A.

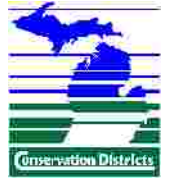
All state agencies, county and other local governments, school boards, other boards, departments, commissions, councils, and public colleges and universities are covered under F.O.I.A.

Any program primarily funded by the state or local authority is also covered.



Who Is Exempt From F.O.I.A.

The Act does not apply to the judicial branch and it does not apply to legislators.



Public Records Open to Disclosure

All writings prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, except computer software and those records explicitly specified as exempt from disclosure, are covered by the Michigan Freedom of Information Act.



Public Records Open to Disclosure

In general, all records except those specifically cited as exemptions are covered by F.O.I.A., and include:

- Working papers and research materials
- Minutes of open and closed meetings
- Officials' voting records
- Staff manuals
- Time sheets & payroll records (remove personal information i.e. social security number, home address, home phone number, date of birth)
- Final orders or decisions in contested cases and the records on which they were made
- Promulgated rules
- Written statements which implement or interpret laws
- Rules or policy including, but not limited to, guidelines, manuals and forms with instructions adopted or used by the District in the discharge of its function.



Customer/Client Files

Customer/client files housed in the *Conservation District* office are considered public records and are open to disclosure.



Information Exempt From F.O.I.A.

Information of a personal nature where public disclosure of the information would constitute a clearly unwarranted invasion of an individuals privacy is exempt.

If the public document must be provided, the “personal” information should be redacted from the document. This information includes:

- **Social security number**
- **Date of birth**
- **Home address**
- **Home telephone numbers**



Who Can Make a F.O.I.A. Request?

Public documents may be requested under F.O.I.A. by an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity.

Individuals serving a sentence of imprisonment in a federal, state or county correctional facility in Michigan or any other state **may not** request public documents.



How Are Requests Made?

A person desiring to inspect or receive a copy of a public record shall make a written request for the public record to the public body.

This written request can be made by a post office mailing, facsimile, electronic mail, or other electronic transmission.



Responding To F.O.I.A. Requests

If you have received a written request to disclose public records under F.O.I.A., you have **five** (5) business days to respond to the request.

The District may extend the time by **ten** business days by notifying the requester in writing.



Charging a Fee

A fee may be charged for the necessary copying of a public record for inspection, or providing a copy of a public record to a requester.

The District may also charge for search, examination and review, and the deletion and separation of exempt from nonexempt information.



Charging a Fee

The fee must be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of research, examination, review and the deletion and separation of exempt from nonexempt information.

In calculating the cost of labor, a public body may not charge more than the hourly wage of the lowest paid employee capable of retrieving the information necessary to comply with a request



Denying a Record

If a request for a public record is denied, written notice of the denial must be provided to the requester within five days. A failure to respond within the time limits, or a failure to respond at all, also amounts to a denial.

When a request is denied, the public body must provide the requester with a full explanation of the reasons for the denial and the requester's right to seek judicial review.



Denying a Record

Notification of the right to judicial review must include notification of the right to receive attorney's fees and collect damages.



Denying a Record

A person has the right to commence an action in circuit court to compel disclosure of public records which are denied. The action may be brought in the county where the requester lives, the county where the requester does business, the county where the public document is located, or a county where the agency has an office.



Penalties for Violating the Act

If the circuit court finds that the public body has violated F.O.I.A. by refusal or delay in disclosing or providing copies of a public record, it may, in addition to any actual or compensatory damages, award punitive damages of \$500 to the person seeking the right to inspect or receive a copy of a public record.



Summary

- | The Michigan Freedom of Information Act establishes a procedure to ensure every citizen's right of access to government records.
- | Conservation Districts in Michigan must abide by the Act.
- | All writings prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function are covered by F.O.I.A.
- | Personal information exempt from F.O.I.A. include: social security numbers, date of birth, home address and home phone numbers.



Summary

- | District's have five days to respond to a F.O.I.A. request.
- | District's may charge a fee to the requester for the necessary copying of a public record.
- | If a request for a public record is denied, written notice of the denial must be provided to the requester within five days.
- | A person has the right to commence an action in circuit court to compel disclosure of public records which are denied.



Review Questions

- | What is the purpose of the Freedom of Information Act?
- | Why does it apply to Conservation Districts?
- | Name several types of public documents your District has that are open to F.O.I.A.
- | Who cannot make a F.O.I.A. request?
- | How many days does your District have to respond to a F.O.I.A. request?
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Resources Available

Resource Available	Where to Find It
Book: "In a Public Light: A Guide to Michigan's Open meetings & Freedom of Information Acts	Michigan Township Association 512 Westshire Dr. Lansing, MI 48917 (517) 321-6467
Booklet: The Michigan's Open Meetings Act & Freedom of Information Act	In the Conservation District <u>Operations Handbook</u> located in each District office
Web site available that provides information about F.O.I.A.	www.michigan.gov



Sample Letter: F.O.I.A. approval

Dear:

Your request for information under the Freedom of Information Act was received in our office on (date). I am pleased to enclose a copy of the information requested.

Even though the Freedom of Information Act permits us to charge you for our costs in retrieving, copying and mailing this information, we are sending it free of charge as a public service.

OR

Pursuant to provisions in the Freedom of Information Act, you will soon receive a bill from for our costs in retrieving, copying and mailing this information.

If you have any questions about this information, please contact (FOIA Coordinator) at (phone number). Thank you.

Sincerely,

Name

Title



Sample Letter: Extension of time to respond

Dear:

Your request for information under the Freedom of Information Act was received in our office on _____. I am not able to respond to your request within the time limit set forth in the act because of (the broad nature and extensive scope of the request...other reasons could also exist). I am therefore extending the response time frame and will comply with your request on or before (may extend for 10 business days, generally).

If you have any questions about this information, please contact me at _____.

Sincerely,

Name

Title



Sample Letter: F.O.I.A. denial

Dear:

Your request for information under the Freedom of Information Act was received in our office on _____. Your request is denied because the information you seek does not exist in our office.

After a diligent search, I have not been able to locate the records you seek with the information given. If you have any additional information regarding the description, location, content or date of the record you seek, please call or write so that I can continue my search on your behalf.

Pursuant to provisions of the Freedom of Information Act, you have a right to appeal this decision in writing to (name individual with address). Your writing must identify a reason for your appeal and the word "appeal" must appear in the letter. You also have a right to seek judicial review of this decision within 180 days. Further, you may have a right to receive attorney's fees and damages as provided in the Freedom of Information Act if, after judicial review, the court determines that we have not complied with the Act and orders a disclosure of the record you seek.

If you have any questions about this information, please contact me _____ .

Sincerely,

Name
Title