Reviewed and Approved: 07/21/2026

INDIAN RIVER AREA LIBRARY

Freedom of Information Act Policy

1. STATEMENT of PURPOSE

   The Indian River Area Library (IRAL) adopts the public policy set forth in the Michigan Freedom of Information Act, 1976 PA 442 ("FOIA"), that all persons, except those persons incarcerated in state, country, or federal 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 FOIA. These Procedures and Guidelines are enacted in compliance with the requirements set forth in Section 4(4) of the FOIA.

2. FOIA COORDINATOR

   IRAL appoints the Director as FOIA Coordinator. The FOIA Coordinator will respond to requests in accordance with the FOIA. An employee of IRAL who receives a request for a public record must promptly forward that request to the FOIA Coordinator. The FOIA Coordinator is responsible for accepting, processing, and approving a denial of a request and signing the written notice of denial. The FOIA Coordinator may designate another individual to act on their behalf in accepting and processing requests for IRAL's public records, and in approving a denial.

3. REQUEST REQUIRED

   A. Requestor; Public Record. An individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity, except those persons incarcerated in state, county, or federal correctional facilities, may request public records from IRAL. "Public Record" has the meaning as defined in Section 2(e) of the FOIA.

   B. Verbal Requests. IRAL may, but is not required to, provide public records in response to a verbal request, unless such verbal request is for information that IRAL believes is available on its website. In such case, an employee, where practicable and to the best of their knowledge, shall inform the requestor about the pertinent website where the information is available.

   C. Written Requests. Except as provided in Section 3.B. above, a person desiring to inspect, copy, or receive a copy of a public record shall make a written request for the public record to IRAL. A request can be made through a letter, in person, or sent by electronic transmission

      a. Where to Send the Request. Whenever possible, requests for public records should be directed to the following recipients so that the information can reach the FOIA Coordinator:

i. By mail or in person:

Indian River Area Library

Attn: FOIA Coordinator

PO Box 160

Indian River, MI 49791

ii. By e-mail: director@indianriverlibrary.org

iii. By fax: 231 238 9494

b. Sufficient Description. Requests in writing must identify the public record sufficiently to allow IRAL to find the requested record. If not, the request may be denied on that basis.

c. Electronic Transmissions. For requests sent by electronic transmission, the following shall apply:

i. Electronic Transmissions. A written request made by facsimile, electronic mail, or other electronic transmission is not received by IRAL's FOIA coordinator until 1 business day after the electronic transmission is made.

ii. Spam or Junk Mail Folder. If a written request is sent by electronic mail and delivered to IRAL's spam or junk mail folder, the request is not received until 1 day after IRAL first becomes aware of the written request. IRAL shall note on its records both the time a written request is delivered to its spam or junk mail folder and the time IRAL first becomes aware of that request. The FOIA Coordinator shall be responsible for routinely monitoring the spam and junk mail folders in order to determine whether they contain any FOIA requests.

d. Specify Format. The requestor may specify whether they would like to inspect, receive paper copies, or receive the public records on nonpaper physical media. IRAL is only required to comply with the request for specified nonpaper physical media if it has the technological capability necessary to provide the public records on the requested nonpaper physical media in the particular instance.

e. Subscription. A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription shall be valid for up to 6 months, at the request of the subscriber, and shall be renewable.

4. PROCEDURES FOR RESPONDING TO WRITTEN FOIA REQUESTS

A. Response. Unless otherwise agreed to in writing by the person making the request, IRAL shall respond to a request within 5 business days after it receives the request by:

a. Granting the request (which would include notifying the requestor that all or a portion of the public records requested are available on the website, if applicable);

b. Issuing a written notice to the requesting person denying the request;

c. Granting the request in part and issuing a written notice to the requesting person denying the request in part (which would include notifying the requestor that all or a portion of the public records requested are available on the website if applicable); or

d. Issuing a notice extending for not more than 10 business days the period during which IRAL shall respond to the request.

IRAL's written response should be considered the final determination regarding the FOIA request.

B. *Understanding IRAL's Response.* IRAL has an obligation to respond as required under the FOIA. If IRAL grants a written request in full, the requestor will receive a notice indicating that it has been granted. However, if the request is denied or denied in part, IRAL shall provide the following information:

a. Pursuant to Section 13 of the FOIA, IRAL may exempt certain documents from disclosure. The FOIA Coordinator will review the request to determine if any exemptions apply. The FOIA Coordinator may request assistance from IRAL's Attorney regarding the application of exemptions. If exempt, IRAL shall provide an explanation of the basis under this act or other statute for the determination that the public record, or portion of that public record, is exempt from disclosure, if that is the reason for denying all or a portion of the request.

b. A certificate that the public record does not exist under the name given by the requestor or another name reasonably known the IRAL, if that is the reason for denying the request or portion of the request. The denial letter may indicate that letter serves as the certificate as required by the FOIA.

c. A description of a public record or information on a public record that is separated or deleted pursuant to Section 14 of the FOIA, if a separation or deletion is made.

d. A full explanation of the requesting person's right to do either of the following:

i. Submit to the Indian River Area Library Board ("Board") a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or

ii. Seek judicial review of the denial under Section 10 of the FOIA.

e. Notice of the right to receive attorney's fees and damages as provided in Section 10 of the FOIA, MCL 15.240, if, after judicial review, the court determines that IRAL has not complied and orders disclosure of al or a portion of a public record.

C. *No Obligation to Create Records.* The FOIA does not require IRAL to make a compilation, summary, or report of information. Further, IRAL is not required to create a new public record in order to respond to a request.

D. *Documents Available on Website.* If the FOIA Coordinator knows or has reason to know that all or a portion of the requested information is available on its website, IRAL shall notify the requestor in its written response. The written response, to the degree practicable in the specific instance, shall include a specific webpage address where the requested information is available.

If all or a portion of the requested records are available on the website and IRAL has included the website address in its written response but the requestor wants public records in a paper format or other nonpaper physical media, IRAL shall provide the public records in the specified format. On the detailed itemization, IRAL shall separate the requested public records that are available on its website from those that are not available on the website and shall inform the requestor of the additional charge to receive copies of the public records that are available on its website.

5. FEES

IRAL may charge a fee for a public record search, for the necessary copying of a public record for inspection, or for providing a copy of a public record because it has established, made publicly available, and follows this Policy and the 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 and review; and the deletion and separation of exempt information from non-exempt information as set forth more fully in this Policy. The FOIA Coordinator shall provide a detailed itemization of costs on a standard form, as required under Section 4(4) of the FOIA ("Detailed Itemization"). The total fee shall not exceed the sum of the following components:

A. Labor Costs:

a. Searching for, Locating, and Examining.

i. IRAL may charge for searching for, locating and examining public records in conjunction with receiving and fulfilling a granted written request.

ii. IRAL shall not charge more than the hourly wage of its lowest paid employee capable of searching for, locating, and examining the public records in the

particular instance regardless of whether that person is available or who actually performs the labor.

iii. These labor costs shall be estimated and charged in increments of 15 minutes, with all partial time increments rounded down.

b. Separating and Deleting Exempt from Non-Exempt:

i. For services performed by an employee of IRAL, IRAL shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from non-exempt information in the particular instance, regardless of whether that person is available or who actually performs the labor. All references in this Policy to separating and deleting exempt information from non-exempt information shall refer to the separation and deletion requirements set forth in Section 14 of the FOIA, MCL 15.244.

ii. If IRAL does not employ a person capable of separating and deleting exempt information from non-exempt information in the particular instance, it may treat necessary contracted labor costs used for the separating and deleting of exempt information from non-exempt information in the same manner as employee labor costs when calculating charges under this subdivision if all the following occur:

1. IRAL's FOIA Coordinator determines on a case-by-case basis that IRAL does not employ a person capable of separating and deleting exempt information from non-exempt information.

2. IRAL clearly notes the name of the contracted person or firm on the Detailed Itemization.

3. Total labor costs calculated for contracted labor costs shall not exceed an amount equal to 6 times the state minimum hourly wage rate.

iii. These labor costs shall be estimated and charged in increments of 15 minutes, with all partial time increments rounded down.

iv. IRAL shall not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the public record in question and the redacted version is still in IRAL's possession.

v. If IRAL directly or indirectly administers or maintains an official internet presence, any public records available to the general public on that internet site at the time the request is made are exempt from this labor charge.

c. Duplication or Publication Labor Charges.

i. IRAL may charge labor costs for duplication and publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on nonpaper physical media or through the internet or other electronic means as stipulated by the requestor.

ii. IRAL shall not charge more than the hourly wage of its lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor.

iii. Labor costs shall be estimated and charged in increments of one (1) minute or more, with all partial time increments rounded down.

d. Fringe Benefits Costs. IRAL may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits if it clearly notes the percentage multiplier used to account for benefits in the Detailed Itemization. Subject to the 50% limitation, IRAL shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits.

If all or a portion of the requested records are available on the website and IRAL has included the website address in its written response but the requestor wants the public records in a paper format or other nonpaper physical media, IRAL shall provide the public records in the specified format but may use a fringe benefit multiplier greater than the 50% limitation, not to exceed the actual costs of providing the information in the specified format.

e. Overtime Wages. Overtime wages shall not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted on the Detailed Itemization.

f. Itemization. All labor fee components shall be itemized using both the hourly wage and the number of hours charged on the Detailed Itemization.

g. Unreasonably High Costs. The labor fee shall not be charged for (1) searching for, locating and examining of public records, or (2) the cost of the deletion and separation of exempt information from non-exempt information, unless failure to charge a fee would result in unreasonably high costs to IRAL because of the nature of the request in the particular instance, and IRAL specifically identifies the nature of these unreasonably high costs. The FOIA Coordinator has authority to determine when the costs are unreasonably high in a particular instance, including, but not limited to, instances when the costs would be excessive and beyond the normal or usual amounts for responding to a request. In doing so, the FOIA Coordinator may take into account considerations such as the volume and complexity of the FOIA request as well as IRAL's particular fiscal condition at the time of the request or any other conditions authorized by law.

B. Other Costs.

a. Nonpaper Physical Media. Costs for providing records on nonpaper physical media.

i. The requestor may stipulate that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided to them in lieu of paper copies. IRAL is not required to provide the documents on nonpaper physical media if it lacks the technological capability necessary to provide records on the requested particular nonpaper physical media.

ii. For public records provided to the requestor on nonpaper physical media, IRAL may charge the actual and most reasonably economical cost of the computer discs, computer tapes, or other digital or similar media. IRAL may use (but is not required to) a computer disc, thumb drive or other nonphysical media provided by the requestor but only if it is provided in its original packaging. Because the safety and security of IRAL's computers and network is of important public interest, IRAL may take that security interest into account when determining the means of providing the documents on nonpaper physical media.

b. Costs for Providing Paper Copies

i. For paper copies of public records provided to the requestor, IRAL may charge the actual total incremental cost of necessary duplication or publication, not including labor.

ii. The fee shall not exceed the current Library rate per sheet of paper for copies of public records made on 8-1/2- by 11-inch paper or 8-1/2- by 14-inch paper. For all other paper sizes, IRAL may charge the actual total incremental cost of duplication or publication, not including labor.

iii. IRAL shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

c. Mailing Costs.

i. IRAL shall charge the actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner.

ii. IRAL shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor, but may otherwise charge for the least expensive form of postal delivery confirmation when mailing public records.

C. *Statutory Fees.* The fees set forth in this Section V 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.

D. *Fees Paid Before Providing Documents.* IRAL shall require that all fees be paid in full before providing records in response to granted or granted in part written requests.

6. DEPOSIT

A. *Deposit.* In either IRAL's initial response or subsequent response as described under Section 5(2)(d), IRAL may require a good-faith deposit before providing the public records to the requestor if the entire fee estimate or charge authorized the FOIA exceeds $50.00, based on a good-faith calculation of the total. The deposit shall not exceed 1/2 of the total estimated fee, and IRAL's request for a deposit shall be included in the Detailed Itemization. The response shall also contain a best efforts estimate by IRAL regarding the time frame it will take IRAL to comply with the law in providing the public records to the requestor. The time frame estimate is nonbinding upon IRAL, but IRAL shall provide the estimate in good faith and strive to be reasonably accurate and to provide the public records in a manner based on this state's public policy and the nature of the request in the particular instance. If IRAL does not respond in a timely manner as required by the FOIA, it is not relieved from its requirements to provide proper fee calculations and time frame estimates in any tardy responses. Providing an estimated timeframe does not relieve IRAL from any of the other requirements of this act.

B. *Increased Deposit For Prior Unpaid Requests.* After IRAL has granted and fulfilled a written request from an individual under this act, if IRAL has not been paid in full the total amount for the copies of public records that IRAL made available to the individual as a result of that written request, IRAL may require a deposit of up to 100% of the estimated fee before it begins a full public record search for any subsequent written request from that individual if all of the following apply:

a. The final fee for the prior written request was not more than 105% of the estimated fee.

b. The public records made available contained the information being sought in the prior written request and are still in IRAL's possession.

c. The public records were made available to the individual, subject to payment, within the time frame estimate described Section 4(7) of the FOIA.

d. Ninety days have passed since IRAL notified the individual in writing that the public records were available for pick up or mailing.

e. The individual is unable to show proof of prior payment to IRAL.

f. IRAL calculates a Detailed Itemization that is the basis for the current written request's increased estimated fee deposit.

IRAL shall no longer require an increased estimated fee deposit from an individual described above if any of the following apply:

a. The individual is able to show proof of prior payment in full to IRAL;

b. IRAL is subsequently paid in full for the applicable prior written request; or

c. Three hundred sixty-five days have passed since the individual made the written request for which full payment was not remitted to IRAL.

7. WAIVER OR REDUCTION OF FEES.

A. *Waiver of Fees of First $20.00.* 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 by either of the following:

a. Indigency. An individual who is entitled to information under this act and who submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency.

i. If the requestor is eligible for a requested discount, IRAL shall fully note the discount on the Detailed Itemization.

ii. If a requestor is ineligible for the discount, IRAL shall inform the requestor specifically of the reason for ineligibility in IRAL's written response. An individual is ineligible for this fee reduction if any of the following apply:

1. The individual has previously received discounted copies of public records from IRAL twice during that calendar year.

2. The individual requests the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request, as verified by an affidavit executed by the requestor.

b. Certain Non-Profit Organizations. A non-profit organization formally designated by the state to carry out activities under subtitle C of the 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, or their successors, if the request meets all of the following requirements:

i. Is made directly on behalf of the organization or its clients.

ii. 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.

iii. Is accompanied by documentation of its designation by the state, if requested by IRAL.

B. *Public Interest Reduction or Waiver*. The FOIA Coordinator may reduce or waive the imposition of fees if the FOIA Coordinator determines 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.

C. *Reduction for Late Responses*. If IRAL does not respond to a written request in a timely manner as required by the FOIA, IRAL shall do the following:

a. Reduce the charges for labor costs by 5% for each day IRAL exceeds the time permitted, with a maximum 50% reduction, if either of the following applies:

i. The late response was willful and intentional.

ii. The written request:

1. included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment, or

2. specifically included the words, characters, or abbreviations for “freedom of information", "information", "FOIA", "copy", or a recognizable misspelling of such, or appropriate legal code reference for this act, on the front of an envelope, or in the subject line of an electronic mail, letter, or facsimile cover page.

b. If a charge reduction is required, IRAL shall fully note the charge reduction on the Detailed Itemization.

8. <u>INSPECTION.</u>

Upon request, IRAL must furnish a requesting person a reasonable opportunity for inspection and examination of its public records, and must furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours. Pursuant to Section 4(1) of the FOIA, IRAL may charge a fee for the public record search, for the necessary copying of a public record for inspection or for providing a copy of the public record after inspection.

The FOIA permits IRAL to make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. IRAL must

protect public records from loss, unauthorized alteration, mutilation, or destruction. As such, IRAL authorizes the FOIA Coordinator to determine whether in a particular circumstance an employee or agent of IRAL must be present at any inspection of documents to protect the public records, and in such cases may assess charges as appropriate under law.

9. CERTIFIED COPIES

IRAL must, upon written request, furnish a requesting person a certified copy of the public record disclosed in whole or in part by IRAL.

10. APPEALS

A. Appeal of a Final Determination to Deny All or a Portion of the Request.

a. Submit an Appeal. If a requestor desires to appeal all or part of a final determination to deny a request, the requestor must submit to the Board a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

b. Receipt of Appeal. The Board is not considered to have received a written appeal until the first regularly scheduled meeting of the Board following submission of the written appeal.

c. Response to Appeal. Within 10 business days after receiving a written appeal, the Board shall do 1 of the following:

i. Reverse the disclosure denial.

ii. Issue a written notice to the requesting person upholding the disclosure denial.

iii. Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

iv. Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the Board shall respond to the written appeal. The Board shall not issue more than 1 notice of extension for a particular written appeal.

B. *Appeals of Fees (Including Deposits).*

a. Submit an Appeal. If IRAL requires a fee that exceeds the amount permitted under this Policy or Section 4 of the FOIA, the requesting person may submit to the Board a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under this Policy or Section 4 of the FOIA.

b. Receipt of Appeal. The Board is not considered to have received a written appeal under until the first regularly scheduled meeting of the Board following submission of the written appeal.

c. Response of Appeal. Within 10 business days after receiving a written appeal, the Board shall do 1 of the following:

i. Waive the fee.

ii. Reduce the fee and issue a written determination to the requesting person indicating the specific basis under Section 4 of the FOIA that supports the remaining fee. The determination shall include a certification from the Board that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available Policy and Section 4 of the FOIA.

iii. Uphold the fee and issue a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee. The determination shall include a certification from the Board that the statements in the determination are accurate and that the fee amount complies with this Policy and Section 4 of the FOIA.

iv. Issue a notice extending for not more than 10 business days the period during which the Board must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The Board shall not issue more than 1 notice of extension for a particular written appeal.

11. CIVIL ACTION

A. *Civil Action for Non-Disclosure or Denial of Public Records.*

a. Civil Action After Appeal: If the Board fails to respond to a written appeal or if the Board upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action within 180 days after IRAL's final determination to deny a request.

b. Civil Action Directly After Denial. A requestor may also commence a civil action in the circuit court to compel IRAL's disclosure of the public records within 180 days after IRAL's final determination to deny a request. The requestor is not required to appeal the denial to the Board before commencing the civil action.

c. Remedies; Fines. If the court determines a public record is not exempt from disclosure, it shall order IRAL to cease withholding or to produce all or a portion of a public record wrongfully withheld. If the person prevails, the court shall award reasonable attorneys'

fees, costs, and disbursements. If the person or IRAL prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. If the court determines that IRAL has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order IRAL to pay a civil fine of $1,000.00 and shall award, in addition to any actual or compensatory damages, punitive damages in the amount of $1,000.00.

B. *Civil Action Regarding Fees.*

a. Civil Action After Appeal. A requestor may commence a civil action in the circuit court for a fee reduction if IRAL (1) failed to respond to a written appeal or (2) made a determination on a written appeal. A requester must submit an appeal to the Board for a fee reduction before commencing a civil action. If a civil action is commenced against IRAL, IRAL is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. This action must be filed within 45 days after receiving notice of the determination of an appeal to the Board.

b. Remedies; Fines. If the requesting person prevails by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. If the court determines IRAL has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order IRAL to pay a civil fine of $500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of $500.00 to the person seeking the fee reduction.

12. FOIA RECORD RETENTION

The FOIA Coordinator must keep a copy of all written requests and documents sent in response to the request for public records on file for no less than 1 year, unless a longer retention time has been specified in a record retention policy applicable to IRAL.

13. PUBLICATION AND NOTIFICATION OF POLICY

Because IRAL maintains a website, these Procedures and Guidelines and the summary shall be posted and maintained on the website. IRAL shall make these Procedures and Guidelines and summary publicly available by providing free copies both in the response to a written request and upon request by visitors at IRAL’s office. However, IRAL may include the website link instead of providing paper copies in its response to a written request.

14. SEVERABILITY; ENFORCEABILITY

If any clause, provision or section of the Procedures and Guidelines shall be ruled invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections. If

any of the Procedures and Guidelines is determined by the FOIA Coordinator to be in conflict with the FOIA or other law after adoption, the FOIA Coordinator has IRAL to process FOIA requests in conformance with the FOIA and shall seek to amend these Procedures and Guidelines as soon as possible.

15. EFFECTIVE DATE

This Policy shall become effective on February 15, 2022.