

FISCAL AND OPERATIONAL PRACTICES

Public Access to Cooperative Records

Administrative Procedures Implementing Section 3.10

The following procedures shall be applied when individuals seek access to public records under the Illinois Freedom of Information Act (“FOIA”) and Cooperative Policy 3.10.

1. **Definition of Public Records.** “Public records” which may be available pursuant to Cooperative Policy and these Procedures means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the Cooperative, or as otherwise defined by applicable law.
2. **FOIA Requests to be in Writing.** Requests to inspect and/or copy Cooperative public records must be submitted in writing, and are expected to be directed to the Cooperative’s Freedom of Information Officer(s) (“FOIA Officer”). Requests are expected to specify with reasonable particularity which public records are sought to avoid inefficient use of staff time in retrieving and preparing records for inspection. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under FOIA are deemed unduly burdensome and may be denied. If a request is for a commercial purpose, as defined in FOIA and Section 4.B. below, the requester is expected to disclose that in his or her initial written request. It is a violation of FOIA for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the Cooperative.
3. **FOIA Officer(s).**
 - A. **Designation of FOIA Officer(s).** The Executive Director shall designate one or more employees to serve as the Cooperative’s FOIA Officer(s). If more than one, the Executive Director shall designate a Chief FOIA Officer and one or more Deputy FOIA Officers.
 - B. **Training of FOIA Officer(s).** Every FOIA Officer, including any deputies, must complete an electronic training curriculum developed by the Public Access Counselor’s office of the Attorney General by July 1, 2010. After July 1, 2010, whenever a new FOIA officer is designated, that person must complete the electronic training curriculum within 30 days after assuming the position. After the initial training, all FOIA Officers must complete an annual training program by the Public Access Counselor.

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- C. FOIA Officer Duties. Upon receiving a request for a public record, the FOIA Officer shall:
- Note the date the public body receives the written request.
 - Compute the day on which the period for response will expire (see Section 4 below) and make a notation of that date on the written request.
 - Maintain an electronic or paper copy of each written request, including all documents submitted with the request until the request has been complied with or denied.
 - Coordinate examination of responsive documents, notices to and follow-up with the Public Access Counselor, as necessary.
 - Prepare and issue responses to requests on behalf of the Cooperative.
 - Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.
 - Place and maintain a copy of all notices of denial in a single central office file that is open to the public and indexed according to the type of exemption asserted, and, to the extent feasible, according to the types of records requested.
4. Response to FOIA Request.
- A. Non-Commercial Purposes. The FOIA Officer shall respond to requests for non-commercial purposes within five business days after the Cooperative's receipt of the written request, unless the time period for response is extended in accordance with the requirements of FOIA and Section 5 below.
- B. Commercial Purposes. The FOIA Officer shall respond to written requests for commercial purposes within 21 business days after receipt. The response shall (i) provide an estimate of the time required by the Cooperative to provide the records requested and an estimate of the fees to be charged, which the Cooperative may require the person to pay in full before copying the requested documents; (ii) deny the request if an exemption applies; (iii) notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or (iv) provide the records requested. Unless the records are exempt from disclosure, the FOIA

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Officer shall comply with the request within a reasonable period, considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. “Commercial purpose” means the use of any part of a public record, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sale or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a “commercial purposes” when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research for education.

- C. Format of Responsive Documents. The FOIA Officer shall provide the record in the format requested by the requester, if feasible. The FOIA Officer may direct the requester to the Cooperative’s website for access to responsive documents, unless the requester specifically requests another format of the responsive documents.
5. Extensions. If an extension of time is required, the FOIA Officer shall provide written notice to the requester of the date by which the records shall be available and the reason for the extension. Such extension notice shall be provided within five business days after the Cooperative’s receipt of the original request to inspect and/or copy public records. Extensions for non-commercial requests shall be no more than an additional five business days after the original response is due, or such longer time as agreed to in writing with the requester. Extensions are warranted if one of the following applies or if otherwise authorized by FOIA or Illinois law:
- The requested records are stored in whole or in part at other locations than the office having charge of the requested records; or
 - The request requires the collection of a substantial number of specified records; or
 - The request is couched in categorical terms and requires an extensive search for the records responsive to it; or
 - The requested records have not been located in the course of routine search and additional efforts are being made to locate them; or
 - The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under FOIA or should be revealed only with appropriate deletions; or

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- The request for records cannot be complied with within the prescribed time limit without unduly burdening or interfering with the operations of the Cooperative; or
 - There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having substantial interest in the determination or in the subject matter of the request.
6. Inspection of Public Records. Inspection of Cooperative public records not exempted from disclosure under FOIA shall be permitted during regular business hours at the Cooperative's office.
7. Copy Charges and Waivers/Reductions.
- A. Fee Schedule. The Directing Board shall adopt a standard scale of fees, in accordance with FOIA and other laws. The current Fee Schedule is attached to these Administrative Procedures.
- B. Waivers/Reductions. Public records may be furnished without charge or at a reduced charge if the individual requesting the public records states specifically the purpose for the request and the reasons that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee may be determined to be in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. In determining the amount of waiver or reduction, the Cooperative may take into consideration the amount of materials requested and the cost of copying them.
8. Denials. A request may be denied when the material requested is (i) not a "public record" of the Cooperative, as defined by law; (ii) is exempt from disclosure under FOIA or any other State or federal law; or (iii) complying with the request would be unduly burdensome.
- A. Unduly Burdensome Requests. Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the Cooperative and there is no way to narrow the request and the burden on the Cooperative outweighs the public interest in the information. Before invoking this exemption, the FOIA Officer shall extend to the requester an opportunity to confer in an

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attempt to reduce the request to manageable proportions. However, repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under FOIA are deemed unduly burdensome under FOIA and may be denied.

- B. Denials based on (1) the “personal information” exemption, or (2) the “preliminary drafts” exemption. In the event the FOIA Officer intends to deny a request for public records, in whole or in part, based on FOIA’s exemptions for personal information (FOIA Section 7(1)(c)) or preliminary drafts (FOIA Section 7(1)(f)), the FOIA Officer shall, within the required time frame for a response set forth in Sections 4 and 5 above, notify the requester and the Public Access Counselor’s office of the Illinois Attorney General of the FOIA Officer’s intent to deny the request for one of these exemptions before issuing an official denial. The notice to both the requester and the Public Access Counselor shall include (i) a copy of the request; (ii) the Cooperative’s proposed response; and (iii) a detailed summary of the public body’s basis for asserting the exemption.

In such event, the time for the FOIA Officer’s official response shall be tolled until the FOIA Officer receives notice that the Public Access Counselor has concluded its inquiry into the intended denial. If the Public Access Counselor concurs with the FOIA Officer’s determination that the public record is exempt from disclosure, the FOIA Officer shall prepare a denial in accordance with Section 8.C below and deliver the denial to the requester. If the Public Access Counselor disagrees, the FOIA Officer should follow the directives of the Public Access Counselor. If the Cooperative disagrees with the conclusions or directives of the Public Access Counselor, the Cooperative may consider filing a lawsuit and should consult with the Cooperative’s attorney, as may be appropriate.

- C. Contents of Denial. In the event the FOIA Officer denies a request for access to public records, in whole or in part, for any reason, the FOIA Officer shall provide the requester with a written statement of the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, citation to supporting legal authority, which may include citation to the exemption claimed, and the names and titles or positions of each person responsible for the denial. The notice of denial shall inform the requester of the right to review by the Public Access Counselor’s office of the Illinois Attorney General and provide the address and phone number for the Public Access Counselor. The notice of denial

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shall also inform the requester of his or her right to judicial review in accordance with Section 11 of FOIA.

9. Exemptions. Records exempt from disclosure include, but are not limited to:
- Private information, unless disclosure is required by another provision of FOIA, a State or federal law, or court order. Private information is defined as unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, personal email addresses, home address, and personal license plates (except as otherwise provided by law or when compiled without the possibility of attributing such information to any person).
 - Personal information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. An unwarranted invasion of personal privacy is defined as the disclosure of information that is highly personal or objectionable to a reasonable person and in which the person's right to privacy outweighs any legitimate public interest in obtaining the information.
 - Preliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the Cooperative (e.g., the Executive Director).
 - Test questions, scoring keys and other examination data used to administer examinations.
 - Information concerning a school's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student.
 - Records relating to the Cooperative's adjudication of employee grievances or disciplinary cases, but not including the final outcome of cases in which discipline is imposed.

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- Communications between the Cooperative and its attorney that would not be subject to discovery in litigation.
- Proposals and bids for any contract, grant, or agreement, until a final selection is made.
- Closed meeting minutes not yet available to the public under the Illinois Open Meetings Act.
- Collective bargaining documents or information, except for any final contracts or agreements.
- Information regarding real estate transactions until a sale is final.

When a request is made to inspect or copy a public record that contains information that is exempt from disclosure, but also contains information that is not exempt from disclosure, the Cooperative must make the non-exempt information available for inspection and copying. However, the FOIA Officer may redact the exempt information from the document before making it available.

10. FOIA Information. The Cooperative shall prominently display at each of its administrative offices and on its website the following information:
- A brief description of the Cooperative;
 - A brief description of the methods whereby the public may request information and public records;
 - A directory designating the Cooperative's FOIA Officer(s);
 - The address where requests for public records should be directed; and
 - Any fees allowable under FOIA.

The Cooperative shall also make the above information available for inspection and copying, and shall send such information through the mail if requested.

11. Categories of Public Records. As required by Section 5 of FOIA (5 ILCS 140/5), the FOIA Officer will maintain and make available for inspection and copying a reasonably current list of all types or categories of documents under its control. This list is attached to these Administrative Procedures.

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12. Immediately Available Documents. As required by Section 3.5(a) of FOIA (5 ILCS 140/3.5(a)), the FOIA Officer will develop a list of documents or categories of records that the Cooperative will immediately disclose upon request. This list is attached to these Administrative Procedures.

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Categories of the Cooperative's Public Records (As required by 5 ILCS 140/5)

The following list identifies the types of public records maintained and available for public inspection:

- Administrative materials and procedural rules;
- Final opinions and determinations, except for those adjudicating student disciplinary cases where the disclosure would unavoidably reveal the identity of the student, or those adjudicating employee grievances or disciplinary cases;
- Final outcomes of employee grievances or disciplinary cases in which discipline is imposed;
- Directing Board policies and final documents explaining or interpreting such policies;
- Final reports and studies prepared by or for the Cooperative;
- Information concerning expenditure of public funds, unless otherwise exempt from disclosure under FOIA;
- Names, salaries, titles, and dates of employment for all Cooperative employees and officers;
- Minutes of Directing Board meetings open to the public;
- Information concerning grants or contracts made by the Cooperative, unless otherwise exempt from disclosure under FOIA;
- All other information required by law to be made available for public inspection and copying.

List of Documents or Categories of Records that the Cooperative Shall Immediately Disclose Upon Request (As required by 5 ILCS 140/3.5(a))

- Directing Board meeting dates
- Approved Minutes of Directing Board meetings open to the public;
- Adopted Budget
- Description of LADSE
- LADSE Membership/Directing Board members
- Access to public records procedures
- LADSE program and information brochures
- LADSE organizational chart

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Fee Schedule for FOIA Requests *(Approved by the Directing Board on 1/20/10)*

Unless a fee is otherwise fixed by another statute, or unless the Cooperative grants a request for a fee waiver/reduction in the public interest, as defined in FOIA, the charges associated with copies in response to FOIA requests shall be as set forth below:

- No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested.
- Thereafter, a fee of \$0.15 per page will be charged for each additional black and white, letter or legal sized copy.
- For all other copies, including color copies, the Cooperative shall charge no more than the actual cost for reproducing the records.
- The Cooperative may charge the requester for the actual cost of purchasing a recording medium, whether disc, diskette, tape, or other medium.
- The cost for certifying a public record shall be \$1.

Public records may be furnished without charge or at a reduced charge if the individual requesting the public records states specifically the purpose for the request and the reasons that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee may be determined to be in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. In determining the amount of waiver or reduction, the Cooperative may take into consideration the amount of materials requested and the cost of copying them.