**Public Health Law 301: Using Law to Protect the Public’s Health (2019 trainings)**

Michigan Freedom of Information Act MCL 15.231-15.246

A public agency must provide requested records under the Freedom of Information Act unless an exemption applies. The following exemptions might apply to records related to public health surveillance, investigation, and regulation, although this list may not be exhaustive.

**15.243 Exemptions from disclosure; public body as school district or public school academy; withholding of information required by law or in possession of executive office.**

Sec. 13.

(1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(i) Interfere with law enforcement proceedings.

(ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(iii) Constitute an unwarranted invasion of personal privacy.

(iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(v) Disclose law enforcement investigative techniques or procedures.

(vi) Endanger the life or physical safety of law enforcement personnel.

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(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(i) The information is submitted upon a promise of confidentiality by the public body.

(ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

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(l) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation, including protected health information, as defined in 45 CFR 160.103 [HIPAA Privacy Rule].

(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

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(y) Records or information of measures designed to protect the security or safety of persons or property, or the confidentiality, integrity, or availability of information systems, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and cybersecurity plans, assessments, or vulnerabilities, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

Resources

The Michigan Freedom of Information Act may be found online on the Michigan Legislature’s website at <http://www.legislature.mi.gov>. Direct link to law at: <http://legislature.mi.gov/doc.aspx?mcl-Act-442-of-1976>. Also, may be found under “Often Req Laws” or by conducting a search or navigating through the chapter index.

The Michigan Attorney General has a handbook online that summarizes Michigan’s FOIA requirements and contains related court cases and Attorney General Opinions at <https://www.michigan.gov/documents/ag/FOIA_Handbook_2019_644053_7.pdf>

The Reporters Committee for Freedom of the Press provides links to open records laws for the federal government and all states and tools to compare FOI laws at <http://www.rcfp.org/browse-legal-resources/guides>. Especially see the *Open Government Guide*, a state-by-state guide to open records and meetings laws at <http://www.rcfp.org/open-government-guide>.

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