



THE BUCKEYE INSTITUTE

October 17, 2024

VIA Electronic Mail & Postal Service

Timothy J. Lynch
Vice President and General Counsel
The University of Michigan
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Dear Mr. Lynch,

I am reaching out regarding a public records request The Buckeye Institute sent to the University of Michigan's Freedom of Information Act Office (The Office) on July 22, 2024, pursuant to MCL 15.233(1). In accordance with MCL 15.235, the FOIA office responded on July 30, 2024, and informed us that the Office would have a response by August 13, 2024.

Disappointingly, the Office's response appeared to be nothing more than a boilerplate denial. It incorrectly stated that our response was "overly broad" despite Buckeye's request being as specific as possible. The Buckeye Institute responded the following day and, relying on the MCL and relevant case law, asserted that the request was well within the applicable standards. The Office did not respond. On October 4, 2024, over two months following the initial request, Buckeye again reiterated that its response was precise and requested that the Office comply. Buckeye also warned that failure to comply would result in legal action. The Office did respond on October 8, 2024, but this email contained nothing substantive and only assured another response was forthcoming, which response has not been received as of October 17, 2024.

In relevant part, The Buckeye Institute requested:

The time frame for this request is January 1, 2022, through July 22, 2024.

1. Documents relating to the University of Michigan School of Law's American Bar Association (ABA) accredited status.
2. Documents provided to the ABA to maintain or support accredited status.
3. Correspondence between the University and the ABA regarding the University's accredited status.
4. Documents relating to the University of Michigan Medical School's Liaison Committee of Medical Education (LCME) Accredited Status.
5. Documents provided to the LCME to maintain or support accredited status.
6. Correspondence between the University and the LCME regarding the University's accredited status.

This is precise and not “overly broad.” While it is true governments do not need to comply with requests that are “absurdly overbroad”, *Capitol Information Asso. V. Ann Arbor Police*, 138 Mich. App. 655, 658, 360 N.W.2d 262 (1984), “specific document[s] need not be named or cited” for a request to be valid. *Marks v. United States*, 578 F2d 261, 263 (9th Cir. 1978). Requests may even be “vague” so long as there is little question as to what a request “wishes to see or where to locate it.” *Sears v. Gottschalk*, 502 F2d 122, 124 (9th Cir. 1974).

While Buckeye understands that this request may cover a fair amount of information, the legal standard for overly broad objections to FOIA requests is not the amount of information covered, but rather whether the information requested is “described with enough detail so that a trained employee can locate it with reasonable effort.” *Marks*, 578 F2d 261, 263 (9th Cir. 1978). The Buckeye Institute has requested documents that are maintained for the particular purpose of the University’s accreditation with the American Bar Association and the Liaison Committee of Medical Education. Considering that the University is accredited by these organizations and, as we understand it, provides information to them on a regular basis to maintain this status, it seems clear what documents would be responsive to this request. Similarly, the communication between the University and a distinct party on a distinct topic is also particular in scope.

Finally, Ms. Hill’s response asked Buckeye to identify “the names of the staff member(s) and/or office(s) whose records you are seeking” It should be apparent that the University has better access to that information than The Buckeye Institute has. I would expect that part of Ms. Hill’s job as the Chief FOIA Officer is to know where to find requested records or who would have such records. In this case presumably it would be someone within the law school and the medical school respectively. However, the University has the internal knowledge of who handles information on behalf of the law school and medical school.

I have attached the initial FIOA request as well as the subsequent emails here for your convenience. Since we have not heard back from the FOIA office within the allotted time we have little choice but to now seek judicial enforcement of the law under MCL 15.240(1)(b) and request legal fees pursuant to MCL 15.235(4)(e). I am reaching out to you as in-house counsel before filing suit to try to resolve this before taking legal action. Please contact me at your earliest convenience if you wish to try to resolve this short of judicial involvement. You may contact me either via email or on my cell ([REDACTED]).

Respectfully,
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