8310A - PUBLIC RECORDS

The District's public records, as defined under the Freedom of Information Act, are available for public inspection and/or copying in accordance with the following administrative guidelines. Exemptions are specified in M.C.L.A. 15.243.

Designation of Officers

The Associate Superintendent for Administrative Services shall be the District Records Officer (DRO) as well as the FOIA Coordinator.

Procedures

The following procedures shall be followed in connection with requests to inspect and secure copies of School District records:

A. Written requests to inspect or secure copies of public records may be submitted to the FOIA Coordinator. The District has created a form (Form 8310 F1) which may be used to submit requests under FOIA. Copies of that form are available in the Office of the Superintendent.

B. Within five (5) business days of receiving a written request for public records, the FOIA Coordinator will: (1) grant the request; (2) deny the request and issue written notice of the denial to the requester; (3) partially grant the request and issue a written notice of partial denial to the requester; or (4) issue written notice to the requester that the District needs an additional ten (10) business days to respond.

If a request is denied by the FOIA Coordinator, the requestor may seek to compel disclosure or make a written appeal of the denial to the Board. The Board shall act on the appeal within ten (10) business days of receipt or issue a notice of extension of ten (10) business days in which to make the decision.

C. If the FOIA request is granted in whole or part, upon tender of any required fee, the FOIA Coordinator will prepare the records and direct the requester to the place where they may be inspected and copied. Alternatively, upon written request and tender of any required fee, the FOIA Coordinator will furnish a copy of the requested records to the requester.

D. If the requester asks that records be provided electronically or on non-paper physical media, the FOIA Coordinator shall make arrangements for the record(s) to be transmitted via the medium selected by the requester as long as the District has the technological capability to do so. The FOIA Coordinator shall be responsible for establishing the appropriate fees, which must be paid prior to the transmission of the record(s).

E. When the request is denied, in whole or in part, or when there needs to be a delay in responding to the request, the FOIA Coordinator will note the reason on Form 8310 F3 and send one (1) copy of the form to the requester as soon as possible. The District may extend the time for responding to a FOIA request by not more than ten (10) business days.
F. Records may be inspected only at the Office of the Superintendent or at such other place as may be designated by him/her. No record may be removed from such location. A member of the staff must be present throughout the inspection and copying of such record.

G. Requests by mail, fax, or E-mail for copies of public records may be addressed to the FOIA Coordinator, and will be honored upon payment of any required fee, provided the requester and the record of which a copy is requested are sufficiently identified to make compliance practicable. If the request is sent by email and ends up in the spam or junk mail folder, the request is not considered “received” until 1 day after the public body first becomes aware of the written request.

H. The District is responsible for providing public records of the District, but not for providing additional information that may be related to a record but is not part of a record. Nor is the District required to create a record if none is available.

I. Personnel records are to be considered public records of the District other than those considered to be confidential by law.

(See AG 8320.)

**Location and Time**

Records shall be made available at the Superintendent’s Office, during the school year from 8 a.m. to 3:00 p.m. Monday through Friday, with the exception of the holidays when the District is closed.

**Fees**

The District may charge a fee for the costs associated with responding to a FOIA request. When the FOIA Coordinator elects to charge a fee, the FOIA Coordinator will provide a detailed itemization sheet to the requester that explains the allowable charges, including the actual mailing costs, duplication costs, and labor costs associated with responding to the request.

- If the FOIA Coordinator knows, or has reason to know, that the requested information is available on the District’s website, the FOIA Coordinator shall notify the requester and, if practicable, include a specific webpage address where it is available. On the detailed itemization sheet, the FOIA Coordinator shall separate the items that are available on the website from those that are not and indicate the additional charges that would be made if the requester still desires to receive a copy of records that are available on the website. If the requester insists on copies of documents in a paper format, the FOIA Coordinator will use a fringe benefit multiplier of [100?] - not to exceed the actual cost of providing the information in paper format - when calculating chargeable fringe benefits associated with labor costs.

Labor Fees may be assessed based on the following:

**Searching for, locating and examining public records.** The District may not charge more than the hourly wage of the lowest paid employee capable of searching for, locating and examining public records in conjunction with receiving and fulfilling a “granted” written request in the particular instance. The lowest paid employee hourly wage must be used regardless of whether that person actually performs the work. These labor charges must be calculated in increments of 15 minutes or more with all time rounded down. This fee may only be charged if the failure to charge the fee would result in an unreasonably high cost to the public body because of the nature of the request and the District specifies the nature of the unreasonably high costs.
Separating and deleting non-exempt information from exempt. The District may charge the hourly rate of the lowest paid public employee capable of separating exempt information from non-exempt information in the particular instance, which would include redacting documents. Again, this hourly wage must be used regardless of who actually performs the work. These labor charges must also be calculated in increments of 15 minutes or more with all time rounded down.

In addition, the District may charge for certain contracted labor costs. If the District does not employ a person capable of separating the exempt and non-exempt information, the FOIA Coordinator (on a case-by-case basis) may treat contracted costs (for example, consultants or attorneys) in the same manner as the employee costs. However, the detailed itemization sheet must clearly note the name of the person or firm and the labor costs shall not exceed 6 times the state hourly minimum wage. A public body may not charge this particular fee if it knows or has reason to know that it previously redacted the public record and still has the redacted version.

This fee may only be charged if failure to charge such fee would result in an unreasonably high cost to the public body because of the nature of the request and the public specifies the nature of the unreasonably high costs.

Labor costs for copying. The District may charge the labor costs directly associated with the duplication or publication of requested public records, including making digital copies, making paper copies or transferring digital public records to the requester on non-paper physical media or through e-mail, the internet or other electronic means. When calculating these labor costs, the public body may not charge more than the lowest paid employee capable of the publication and duplication in the particular instance, regardless of whether that person actually does the work. Although the public body may determine the time increment, it must be rounded down.

Fringe Benefits/Overtime. Overtime wages may not be charged unless overtime is specifically stipulated by the requester and may not be included in fringe benefit calculations. The District may also charge the actual cost or partial cost of fringe benefits, but those fringe benefit costs may not exceed 50 percent of the applicable labor charge. Further, the District must clearly note the percentage multiplier used on the detailed itemization sheet.

ACTUAL COSTS
In addition to labor costs, the District may charge for other costs associated with responding to a FOIA request as follows:

For requests provided on “non-paper physical media,” the District may charge the actual and the most reasonably economical cost of the computer discs, computer tapes or other digital or similar media. The requester may ask the public body to send the records by email, on a flash drive or other non-paper physical media instead of paper copies.

For paper copies, the actual incremental cost of necessary duplication or publication may be charged, but may not exceed $.10 per sheet for 8.5 x 11 or 8.5 x 14 sheets, regardless of whether it is one sided or two sided. The cost for paper copies shall be noted and itemized and the cost per sheet and the number of pages provided must be included. The public body must use the most economical means available, including making two sided copies.

For mailing costs, the public body may charge the actual costs of sending the documents, using the least expensive method. The public body may not charge for expedited shipping or insurance unless the requester asks for it.

DEPOSIT; PROVISION OF DOCUMENTS
The District may require a good faith deposit, not to exceed ½ of the total estimated fee, if the total fee is expected to exceed $50 before providing the public records. The request for the deposit shall include a detailed itemization of the fees. The response shall also contain a “best efforts estimate” by the District regarding the time frame it will take the District to provide the public records. The time frame is non-binding upon the District, but it should strive to be reasonably accurate and provide the public records in a manner based on the public policy of FOIA.

The District may require a good faith deposit of 100% of the estimated fee if all of the following apply: (1) the District has already fulfilled a FOIA request from the same individual; (2) the records from the prior request are still in the District's possession; (3) the final fee for the prior request was not more than 105% of the estimated fee; (4) the public records made available through the prior request were within the “best effort estimate” provided; (5) 90 days have passed since the District notified the individual in writing that the public records from the prior request were available for pickup or mailing; (6) the individual cannot show proof of prior payment for the prior request; (7) the individual has not subsequently paid in full for the prior request; (8) the District calculates a detailed itemization for the current request's increased estimated fee deposit; and (9) less than three hundred sixty five (365) days have passed since the individual made the prior request.

DISCOUNT OF FEES
The District will waive the first twenty dollars ($20.00) of fees if (1) the FOIA request is made by a nonprofit corporation designated by the State to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and Protection and Advocacy for Individuals with Mental Illness Act, or their successors, for a reason consistent with those Acts; or (2) the requester submits an affidavit stating he/she cannot pay the fees because he/she is indigent; the requester has not received discounted records from the District twice within the last year; and the requester is not seeking records on behalf of an outside party in exchange for payment. The detailed itemization must describe any discount provided or the reason for denying a requested discount.

UNTIMELY RESPONSES
If the District does not respond timely, it is not relieved from its requirement to provide the proper fee calculation and the time frame for provision of documents, but it must reduce its labor cost permitted by 5 percent for each day the District exceeds the time permitted, with a maximum 50 percent reduction. This reduction would apply if (1) the late response was willful and intentional; or (2) if the FOIA request included (a) language that conveyed a request for information in the first 250 words or specifically included the words, characters or abbreviations for “freedom of information,” “information,” “FOIA,” “copy” (or a recognizable misspelling of those words), or (b) the legal cite to the FOIA on the front of an envelope or in the subject line of an email, letter or fax cover page. If the charge is reduced, the detailed itemization sheet should include that reduction.

AVENUES OF APPEAL
If the requester believes that the fee estimated by the District exceeds the amount permitted, as described above, the requester may submit an appeal to the Board that specifically states the word “appeal” and identifies how the required fee is excessive. If the Board denies or fails to timely respond to the appeal, then the requester may file a lawsuit in state court within 45 days.

If the District denies a written FOIA request, in whole or in part, then within 180 days of the District's denial, the requester can either submit a written appeal to the Board or file a lawsuit in state court. The Board typically has 10 business days after receipt of an appeal to respond, but in unusual circumstances, the Board may take an additional 10 business days. Failure to respond is considered a final determination to deny a request. If the requester chooses to appeal to the Board, and the Board either denies or fails to timely respond to the appeal, the requester still can file a lawsuit in state court within 180 days.

POSTING OF WRITTEN PUBLIC SUMMARY AND PROCEDURES
The District will post a copy of these Administrative Guidelines, as well as a written public summary explaining its FOIA procedures on the District's website. Instead of providing paper copies, the District will specifically include the website link in its response to any FOIA request. The District will also make free copies available, upon request, to visitors at the District's Administration Office.