

## **SUMMARY OF PROCEDURES AND GUIDELINES UNDER THE FREEDOM OF INFORMATION ACT**

### **How to submit written requests**

An individual or organization desiring to inspect or receive copies of public records under the Michigan Freedom of Information Act (FOIA) shall make a written request to the Superintendent or his/her designee. The current designee for these purposes is the School District's Human Resources Department, which can be contacted in person or by U.S. Mail at 15125 Farmington Road, Livonia, MI 48154, by email at [lnew@livoniapublicschools.org](mailto:lnew@livoniapublicschools.org), or by facsimile at 734-744-2569.

The request must sufficiently describe the public record so as to permit the School District to locate it.

### **How to understand the School District's response**

Within five (5) business days of the request having been received, unless the School District has informed the requesting person of a single extension of not more than ten (10) business days, the Superintendent or his/her designee will render one of the following responses:

- 1). Grant the request.
- 2). Deny the request. A denial of the request must state the reason for the denial, including an explanation of the requesting person's right to appeal or seek judicial review of the decision. Failure to respond to the request may constitute a denial.
- 3). Grant the request in part and deny the request in part. Material which is partially exempt and partially subject to disclosure must be separated and the nonexempt material offered for inspection and/or copying.

### **Deposit requirements**

The School District may require a good-faith deposit from the person requesting information before providing the public records if the entire fee estimate exceeds \$50.00, based on a good-faith calculation of the total fee. The deposit shall not exceed 1/2 of the total estimated fee, and the School District's request for a deposit shall include a detailed itemization. The response shall also contain a best efforts estimate by the School District regarding the time frame it will take to provide the public records to the requestor.

After the School District has granted and fulfilled a written request, if the School District has not been paid in full, the School District 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 six (6) conditions apply:

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

(2) The public records made available contained the information being sought in the prior written request and are still in the School District's possession.

(3) The public records were made available, subject to payment, within the time frame estimate described above.

(4) Ninety (90) days have passed since the School District notified the requestor in writing that the public records were available for pickup or mailing.

(5) The requestor is unable to show proof of prior payment to the School District.

(6) The School District calculates a detailed itemization that is the basis for the current written request's increased estimated fee deposit.

The School District shall no longer require an increased estimated fee deposit if any of the following three (3) conditions apply:

(1) The requestor is able to show proof of prior payment in full to the School District.

(2) The School District is subsequently paid in full for the applicable prior written request.

(3) Three hundred sixty-five (365) days have passed since the requestor made the written request for which full payment was not remitted to the School District.

#### Fee calculations

The School District 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.

The total fee shall not exceed the sum of the following six (6) components:

(1) That portion of labor costs directly associated with the necessary searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request. The School District 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. Labor costs under this sub-section shall be estimated and charged in increments of 15 minutes, with all partial time increments rounded down.

(2) That portion of labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information. The School District shall not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting exempt information from nonexempt information in the particular instance. In cases in which the School District does not employ a person capable of separating and deleting exempt information from nonexempt information, it may treat necessary contracted labor costs used for the separating and deleting of exempt information from nonexempt information in the same manner as employee labor costs when calculating charges. Costs for contracted labor shall not exceed 48.90 per hour. Labor costs under this sub-section shall be estimated and charged in increments of 15 minutes, with all partial time increments rounded down. The School District 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 the School District's possession. Any public records available to the general public on the School District's internet site at the time the request is made are exempt from any charges under this sub-section.

(3) For public records provided to the requestor on non-paper physical media, the actual and most reasonably economical cost of the computer discs, computer tapes, or other digital or similar media. The requestor may stipulate that the public records be provided on non-paper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies. This sub-section does not apply if the School District lacks the technological capability necessary to provide records on the particular non-paper physical media stipulated in the particular instance.

(4) For paper copies of public records provided to the requestor, the actual total incremental cost of necessary duplication or publication, not including labor. The cost of paper copies shall be calculated as a total cost per sheet of paper and shall be itemized and noted in a manner that expresses both the cost per sheet and the number of sheets provided. The fee shall not exceed 10 cents 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. The School District shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

(5) The cost of labor directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the internet or other electronic means as stipulated by the requestor. The School District shall not charge more than the hourly wage of its lowest-paid employee capable of necessary duplication or publication in the particular instance. Labor costs under this sub-section may be estimated and charged in time increments of 15 minutes, with all partial time increments rounded down.

(6) The actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner.

When calculating the costs of labor costs, the School District may also include the cost of fringe benefits, in an amount up to 50% to the applicable labor charge.

A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the School District 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. 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 if either of the following two (2) conditions apply:

(1) The individual submits an affidavit stating that he/she is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. If a requestor is ineligible for the discount, the School District shall inform the requestor specifically of the reason for ineligibility in the School District's written response. An individual is ineligible for this fee reduction if any of the following apply:

(i) The individual has previously received discounted copies of public records under this sub-section from the School District twice during that calendar year.

(ii) 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. The School District may require a statement by the requestor in the affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.

(2) The requestor is a nonprofit 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 the School District.

A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the School District because of the nature of the request in the particular instance, and the School District specifically identifies the nature of these unreasonably high costs.

If the School District knows or has reason to know that all or a portion of the requested information is available on its website, it shall so 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. The School District 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.

#### Avenues for challenge and appeal

If a request for a public record is denied, in whole or in part, the requestor may do either of the following:

(1) Submit to the head of the School District a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial.

(2) Seek judicial review.

Within 10 business days after receiving such a written appeal, the head of the School District shall do 1 of the following:

(1) Reverse the disclosure denial.

(2) Issue a written notice to the requesting person upholding the disclosure denial.

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

(4) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the School District shall respond to the written appeal. The head of the School District shall not issue more than 1 notice of extension for a particular written appeal.

If the requestor believes that the School District has charged a fee in excess of that allowed by these Procedures and Guidelines, and the requestor wishes to dispute that fee, the requestor must submit to the head of the School District a written appeal that specifically states the word

"appeal" and identifies how the required fee exceeds the amount permitted under the School District's Procedures and Guidelines.

Within 10 business days after receiving such a written appeal, the head of the School District shall do 1 of the following:

(1) Waive the fee.

(2) Reduce the fee and issue a written determination to the requesting person indicating the specific basis that supports the remaining fee. The determination shall include a certification from the head of the School District that the statements in the determination are accurate and that the reduced fee amount complies with these procedures and guidelines, and with applicable law.

(3) Uphold the fee and issue a written determination to the requesting person indicating the specific basis that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with these procedures and guidelines, and with applicable law.

(4) Issue a notice extending for not more than 10 business days the period during which the head of the School District must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.