Series 3000: Operations, Finance, and Property

3500 FOIA Requests and Record Retention

3501 Freedom of Information Act

The District is a "public body," as defined in Section 2 of the Michigan Freedom of Information Act (FOIA). It is the District's policy to comply with FOIA.

The Superintendent is the District's FOIA Coordinator but may designate another person to accept, process, approve, and deny FOIA requests. The Superintendent will establish written procedures and guidelines, a written public summary of the procedures and guidelines, and a detailed itemization of fees form in compliance with FOIA. The procedures and guidelines will not provide for fee appeals to the Board.

Legal authority: MCL 15.231 et seq.

Date adopted: June 25, 2025

Date revised:

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Series 3000: Operations, Finance, and Property

3500 FOIA Requests and Record Retention

3501-AG Michigan Freedom of Information Act Procedures and Guidelines

The Michigan Freedom of Information Act (FOIA) provides for public access to certain public records, permits the charging of prescribed fees and deposits, and provides remedies and penalties for non-compliance. A person has a right to inspect, copy, or receive copies of certain requested public records. Some public records are permitted or required not to be disclosed. The District is a public body that must comply with FOIA. The District has established the following Procedures and Guidelines to implement FOIA. For purposes of these Procedures and Guidelines, terms have the same meaning as defined in FOIA. A complete copy of FOIA is available on the Michigan Legislature's website at www.legislature.mi.gov.

These Procedures and Guidelines (which include a Public Summary and a Fee Itemization Form) are available on the District's website at: Milan Area Schools / Homepage This link or a physical copy of these Procedures and Guidelines will be included in each of the District's FOIA responses. Paper copies of these Procedures and Guidelines are available upon request by a visitor at the District's Central Administration Offices, located at 100 Big Red Drive, Milan, MI 48160.

A. Written Public Summary

1. How to Submit Written Requests

   A written request to inspect, copy, or review a public record should be submitted to the District's FOIA Coordinator.

   FOIA requests can be sent via U.S. Mail to: 100 Big Red Drive, Milan, MI 48160

   FOIA requests sent via email should be sent to: foia@milanareaschools.org

   FOIA requests sent via fax should be faxed to: 794-439-5050

   A request must describe the public record in sufficient detail to enable the District to find the requested record. A sample Request Form is included with these Procedures and Guidelines as Form 3501-F-1.

   A request must include the requester's (1) complete name (first and last name), (2) mailing address, and (3) either phone number or email address. A request made by an organization must include the contact information of its agent or representative. Any mailing address provided must be in a format that complies with United States Postal Service addressing standards. This information is not required for a request by an individual who qualifies as indigent under FOIA (i.e., by submitting an affidavit that describes the individual's indigence).

   A person may subscribe to future issuances of public records created, issued, or disseminated by the District *on a regular basis*, such as notices of board

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meetings. A subscription is valid for up to 6 months and may be renewed by the subscriber.

In lieu of paper copies, the requester may stipulate that the District provide non-exempt public records on non-paper physical media, electronically mailed, or otherwise electronically provided. The District is not required to produce non-exempt public records on non-paper physical media if the District lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The District is not required to use non-paper physical media provided *by the requester* and, to safeguard the District's information technology infrastructure, will not do so.

A person may request a certified copy of a public record.

2. Explanation of Written Responses

The District will respond to a written request under FOIA within 5 business days (excluding weekends and legal holidays) after the District receives the written request, unless otherwise agreed to in writing by the requester. FOIA defines the date of receipt by the District differently depending upon how the request was delivered to the District (e.g., hand-delivery, U.S. Mail, email, facsimile).

The District will respond to a request by doing one of the following: (a) granting the request; (b) issuing a written notice denying the request; (c) granting the request in part and issuing a written notice denying the request in part; or (d) issuing a notice extending for not more than 10 business days the period during which the District will respond to the request. The District will not issue more than 1 notice of extension for a particular request.

If a requester asks for information that is available on the District's website, the District will notify the requester in its response where to find the records on its website. Paper copies of public records available on the District's website will be made available upon request, but a fee may be charged as explained in Section B.4 and on the detailed Fee Itemization Form.

The District will provide reasonable facilities for a requester to inspect non-exempt public records. The facilities will be available during the District's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which a requester may inspect records to protect the District's records from loss, alteration, mutilation, or destruction or to prevent undue interference with the District's normal operations.

If a request is denied in whole or in part, the District will include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the District. A sample Certificate of Non-Existence of Public Record is included as Form 3501-F-2. If a public record or information is separated and exempt from disclosure

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(redacted), the District will describe generally the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

3. Deposit Requirements

   Where the District estimates that the fee authorized under the FOIA and these Procedures and Guidelines for responding to a request will exceed $50, the District may require a good-faith deposit from the requester before processing the request. A good-faith deposit will not exceed half of the total estimated fee and will include a detailed itemization of estimated fee amounts. The FOIA Coordinator will provide the requester with a detailed itemization of the allowable fees estimated to be incurred by the District to process the request as well as notice of the date by which the deposit must be received, which is 48 days after the notice is sent by any means of transmission. The District will include with its request for a good-faith deposit a best efforts estimate of the time frame within which the District will provide the requested public records. The time frame estimate is not binding on the District but will be made in good faith, and the District will strive to be reasonably accurate.

   If a requester previously requested public records from the District and if the District made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the District may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

   If a requester fails to pay the good-faith deposit within 48 days after the date of the deposit notice and if the requester has not appealed the deposit amount, the request will be considered abandoned and the District will no longer be required to fulfill the request.

4. Fee Calculations

   The FOIA permits the District to charge 6 fee components: (a) labor costs of searching for, locating, and examining public records; (b) labor costs of separating or deleting (redacting) exempt information from non-exempt information; (c) labor costs to duplicate or publish requested public records; (d) actual costs of paper copies (not to exceed 10 cents per sheet for standard 8-1/2 by 11-inch sheets of paper or 8-1/2 by 14-inch sheets of paper); (e) actual costs of non-paper physical media (e.g., flash drive, CD), if requested and if the District has the technological capability to comply; and (f) actual costs of postal delivery. For more detailed information about the District's fee calculations, including fee reductions for untimely responses, see Section B.4. of these Procedures and Guidelines and Form 3501-F-3, Fee Itemization Form. The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.

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a. Fee Waivers. 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 District determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

b. Discounts. Under the following circumstances, a public record search will be made by the District and a copy of a non-exempt public record will be furnished without charge for the first $20 of the fee:

   i. If an individual who is entitled to information under the FOIA:

      - submits an affidavit stating that the individual is receiving specific public assistance or is unable to pay the fee because of indigence and stating that the individual is not making the request in conjunction with outside parties in exchange for payment or other remuneration; and

      - that individual has not previously received discounted copies of public records from the District twice during the same calendar year.

   ii. If a nonprofit corporation formally designated by the State of Michigan 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, submits a request that meets all of the following requirements:

      - is made directly on behalf of the organization or its clients;

      - 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; and

      - is accompanied by documentation of its designation by the state, if requested by the District.

5. Avenues for Challenge and Appeal

   a. Challenge to Record Denial. If the District fails to respond to a FOIA request or makes a final determination to deny all or a portion of a request, the requester may submit an appeal to the Board or may commence an action in the circuit court for the county in which the public record or the District's office is located. See Section B.5.a. of these Procedures and Guidelines for a more detailed explanation of the procedures and timelines for appealing a record denial.

   b. Challenge to Fee. If the District requires a fee that the requester believes exceeds the amount permitted under FOIA or the District's publicly available

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procedures and guidelines, the requester may commence an action in the circuit court for the county in which the public record or the District's office is located. See Section B.5.b. of these Procedures and Guidelines for a more detailed explanation of the procedures and timelines for a fee appeal.

B. Procedures and Guidelines

1. Requests

a. All "persons," except those persons incarcerated in state or local correctional facilities, are entitled to submit a FOIA request to the District. A "person" is defined for purposes of the FOIA to mean "an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity." A request made by a "person," other than an individual (e.g., a corporation, firm, governmental entity) must include the requester's complete name (first and last name), mailing address, and either the phone number or email address of the "person's" agent who is an individual. Any mailing address provided must comply with United States Postal Service addressing standards.

b. A FOIA request is a written request to inspect, copy, or receive copies of a public record. A request must describe the public record in sufficient detail to enable the District to find the requested record. The District suggests that requesters use the sample Request Form (Form 3501-F-1).

c. FOIA requests must be in writing. If, however, a person makes an oral request for information that is available on the District's website and if the employee to whom the request is directed knows that the information is available on the District's website, that employee must inform the requester that the information is available on the District's website.

d. The District's FOIA Coordinator is responsible to process requests to inspect, copy, or receive copies of public records. FOIA requests should be sent to the District's FOIA Coordinator.

i. FOIA requests can be sent via U.S. Mail to: 100 Big Red Drive, Milan, MI 48160

ii. FOIA requests sent via email should be sent to: foia@milanareaschools.org

iii. FOIA requests sent via fax should be faxed to: 794-439-5050

If an employee of the District receives a written request to inspect, copy, or receive copies of a public record, the employee should promptly forward the request to the District's FOIA Coordinator. A requester is not required to use the District's sample Request Form or to include the word "FOIA" in the request. Therefore, all written requests to inspect, copy, or receive copies of records should be promptly forwarded to the FOIA Coordinator for review.

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e. The FOIA Coordinator will keep a copy of all written requests for public records received by the District on file for a period of at least 1 year.

f. A person may subscribe to future issuances of public records created, issued, or disseminated on a regular basis, such as notices or agendas of board meetings. In all other respects, if the requested public record does not exist as of the date requested, the District has no obligation under the FOIA to create the requested record or to provide a copy if created on a later date. A subscription is valid for up to 6 months and may be renewed by the subscriber.

g. The FOIA Coordinator will, upon written request, furnish a certified copy of a public record to the requester.

2. Responses

a. Unless otherwise agreed to in writing by the person making the request, the District must respond to a written request under FOIA within 5 business days (excluding weekends and legal holidays) after the District receives the request by doing one of the following:

i. granting the request;

ii. sending written notice denying the request;

iii. granting the request in part and issuing a written notice denying the request in part; or

iv. issuing a notice extending for not more than 10 business days the period during which the District will respond to the request. The District will not issue more than 1 notice of extension for a particular request.

b. If a request is denied in whole or in part, the District must include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the District. A sample Certificate of Non-Existence of Public Record is included as Form 3501-F-2.

i. Exemptions to disclosure are set forth in Section 13 of the FOIA, MCL 15.243, which is available on the Michigan Legislature's website at www.legislature.mi.gov.

ii. If a public record or information is separated and exempt from disclosure (redacted), the District will describe generally the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

c. The date for responding to a FOIA request depends upon the manner in which the request was delivered. A request sent by mail or delivered by

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hand is received for purposes of FOIA on the day it arrives at the District. A request sent by email, fax, or other electronic means is received for purposes of FOIA 1 business day after the date on which it was electronically transmitted. If a request is sent by email and is diverted to the District spam or junk mail folder, the request is not received until 1 day after the date it is discovered in the spam or junk mail folder. The FOIA Coordinator will include in the District's records both the time that a written request was delivered to its spam or junk-mail folder and the time that the District first became aware of that request. The District will review the FOIA Coordinator's spam or junk mail folder at least once every 30 days.

d. If a request is fully granted, the District will provide copies of, or an opportunity to inspect, all the public records that were requested upon payment of the appropriate fee (if any). No pages will be left out, and nothing will be redacted.

e. The District will provide reasonable facilities for a requester to inspect non-exempt public records. The facilities will be available during the District's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which records may be inspected to protect the District's records from loss, alteration, mutilation, or destruction or to prevent undue interference with the District's normal operations.

f. The FOIA identifies numerous specific exemptions to disclosure. If a request includes information that is exempt from disclosure, the District will provide a written response and list the reason(s) why the record(s) or portions of records will not be disclosed. The District will include a link to, or a copy of, these Procedures and Guidelines (including the Public Summary and Forms 3501-F-1, 3501-F-2, and 3501-F-3) with each denial.

g. If a request is partially denied, it means that some records or parts of records will be disclosed, and that some records or parts of records will not be disclosed. The District will provide copies of, or an opportunity to inspect, the non-exempt records, but exempt information (which may consist of entire documents, pages, or information on a page) may be withheld or redacted. The District will include in the written notice of denial-in-part an explanation of the basis for the denial-in-part and, if applicable, a certificate that one or more of the public records does not exist under the name given by the requester or by another name reasonably known to the District. The District will include a link to, or a copy of, these Procedures and Guidelines (including the Public Summary and Forms 3501-F-1, 3501-F-2, and 3501-F-3) with each denial.

h. Failure of the District to respond to a FOIA request within the prescribed timelines constitutes denial of the request. The fee the District is permitted to charge will be reduced by 5% per day, up to a 50% reduction, if the failure to timely respond was willful or intentional or if the request included

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language described in FOIA as readily conveying a FOIA request. (See Section B.4., Fees).

i. The FOIA does not require the District to create any records or to make compilations, summaries, or reports of existing records. If a request seeks records that do not exist, the District will certify that no records responsive to the request exist under the name or description provided in the request or another name known to the District. (See sample Certificate of Non-Existence of Public Record included as Form 3501-F-2).

j. If a request asks for information that is available on the District's website, the District will notify the requester in its response where the records may be found. If a requester seeks paper copies of information available on the website, the District may charge the fees noted below and on the Fee Itemization Form, except that there will be no charge for separating exempt from non-exempt material.

k. In lieu of paper copies, the requester may stipulate that the District provide non-exempt public records on non-paper physical media, by electronic mail, or other electronic means. The District is not required to produce non-exempt public records on non-paper physical media if the District lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The District is not required to use non-paper physical media provided by the requester and, to safeguard the District's information technology infrastructure, will not do so.

3. Deposit Requirements

a. Where the District estimates that the fee authorized under the FOIA and these Procedures and Guidelines for responding to a request will exceed $50, the District may require a good-faith deposit from the requester before processing the request. A good-faith deposit will not exceed half of the total estimated fee and will include a detailed itemization of estimated fee amounts. The FOIA Coordinator will provide the requester with a detailed itemization of allowable fees estimated to be incurred by the District to process the request as well as notice of the date by which the deposit must be received, which is 48 days after the notice is sent by any means of transmission. The District will include with its request for a good-faith deposit a best efforts estimate of the time frame within which the District will provide the requested public records. The timeframe estimate is not binding on the District, but the estimate will be made in good faith and the District will strive to be reasonably accurate.

b. If a requester fails to pay the good-faith deposit within 48 days of the date of notice and if the requester has not filed an appeal of the deposit amount, the request will be considered abandoned by the requester and the District is no longer required to fulfill the request.

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c. If a requester previously requested public records from the District and if the District made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the District may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

4. Fees

a. A fee will not be charged for the cost to search, examine, review, and delete/separate/redact exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the District. In determining whether such costs are "unreasonably high," the District will consider, on a case-by-case basis, the estimated costs given the volume and complexity of the request relative to the usual or typical costs incurred by the District in responding to FOIA requests.

b. Fees are calculated using the Fee Itemization Form included with these Guidelines and Procedures as Form 3501-F-3. The District charges the following fees:

i. Labor costs incurred for searching for, locating, and examining public records. Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of searching for, locating, and examining the public records. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form. The hourly rate of the lowest-paid employee capable of searching for, locating, and examining particular records may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to search for, locate, or examine the requested record. All charges will be noted on the Fee Itemization Form.

ii. Labor costs for separating and deleting exempt information from non-exempt information. Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of separating and deleting material that is exempt from disclosure from information that is non-exempt from disclosure. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form. The hourly rate of the lowest-paid employee capable of separating and deleting exempt information from non-exempt information may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to separate and redact exempt information from non-exempt information. If the District FOIA Coordinator determines on a case-by-case basis that no employee of the District is capable of separating and deleting exempt from non-exempt material, the District may engage a contracted services provider and charge labor costs. Such labor costs will be calculated in 15-minute

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increments (rounded down), and the hourly rate will not exceed 6 times the state minimum wage. All charges will be noted on the Fee Itemization Form.

iii. Costs for non-paper physical media. A requester may stipulate that records be produced on non-paper physical media (e.g., a flash drive or CD). If the District has the technological capability to comply with the request for production on non-paper physical media, the District may charge the actual and most reasonably economical cost of the requested non-paper physical media, and the cost of non-paper physical media will be included on the Fee Itemization Form.

iv. Actual cost of duplication for paper records. The District will charge the actual cost of duplication (not to exceed 10 cents per sheet) for 8-1/2 by 11-inch sheets of paper or 8-1/2 by 14-inch sheets of paper. The actual cost of duplication will be charged for non-standard-sized sheets of paper and may exceed 10 cents per sheet. The District will utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

v. Actual labor costs for duplication or publication. The District's charges for duplication or publication will not exceed the hourly rate of the lowest-paid employee capable of duplicating or publishing the records. The hourly rate of the lowest-paid employee capable of duplicating or publishing records may vary depending on the nature of the records sought. Duplication or publication fees are calculated in 15-minute increments (rounded down). All charges will be noted on the Fee Itemization Form.

vi. Postal delivery charges. The District may charge the costs of the least expensive form of postal delivery. If a requester asks for expedited mailing and if the District agrees to provide expedited mailing, the actual cost of the expedited mailing may be charged and must be included on the Fee Itemization Form.

vii. Fringe benefits. The District may add to the labor charges described above the actual cost of the public employee's fringe benefits, up to 50% of the labor costs. Fringe benefits must be noted on the Fee Itemization Form.

viii. Overtime wages. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form.

c. Each of the fee components described above must be specifically listed on the Fee Itemization Form. A completed copy of the Fee Itemization Form will be included with the response to the request. A copy of the Fee

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Itemization Form is included with these Procedures and Guidelines as Form 3501-F-3.

d. Fee reductions. If the FOIA Coordinator does not respond to a written request within the time frames required by FOIA, the District will reduce the charges for labor costs otherwise permitted under FOIA and these Procedure and Guidelines by 5% for each day the District exceeds the time permitted for a response to the request, up to a maximum 50% reduction, if either of the following applies:

   i. The late response was willful and intentional.

   ii. The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment or specifically included the words, characters, or abbreviations for “freedom of information,” “information,” “FOIA,” “copy,” or a recognizable misspelling of such, or appropriate legal code reference for the FOIA, on the front of an envelope or in the subject line of an electronic mail, letter, or facsimile cover page.

   If a fee reduction is required, the District will fully note the fee reduction on the detailed Fee Itemization Form (Form 3501-F-3).

e. Payment. The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.

f. Fee waivers. 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 District determines, in its discretion, that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

g. Discounts. Under the following circumstances, a public record search will be made by the District and a copy of a non-exempt public record will be furnished without charge for the first $20 of the fee:

   i. if an individual who is entitled to information under the FOIA:

      - submits an affidavit stating that the individual is receiving specific public assistance or is unable to pay the fee because of indigence and stating that the individual is not making the request in conjunction with outside parties in exchange for payment or other remuneration; and

      - that individual has not previously received discounted copies of public records from the District twice during the same calendar year.

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ii. if a nonprofit corporation formally designated by the State of Michigan 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, submits a request that meets all of the following requirements:

- is made directly on behalf of the organization or its clients;
- is made for a reason wholly consistent with the mission and provisions of those laws under Mental Health Code Section 431, 1974 PA 258, MCL 330.1931; and
- is accompanied by documentation of its designation by the state, if requested by the District.

5. Appeals

A requester may appeal any denial of records or any fee charged for public records.

a. Challenge to Record Denial.

i. If the District denies a request for records, the requester may either:

A) appeal to the District's Board; or

B) commence an action in the circuit court in Washtenaw County within 180 days of the denial.

ii. If the requester appeals to the Board, the appeal must specifically state the word "appeal" and state the reason(s) that the denial should be reversed. The following rules apply to record denial appeals to the governing board:

A) An appeal is not "received" until the first regularly scheduled board meeting after the appeal is submitted.

B) Within 10 business days after receiving the appeal, the Board will do one of the following:

- reverse the denial;
- issue written notice upholding the denial;
- reverse the denial in part and issue written notice upholding the denial, in part; or
- issue written notice extending the time for response by not more than 10 business days.

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C) If the Board fails to respond in a timely manner to the written appeal or upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requester may seek judicial review by commencing a civil action in circuit court.

iii. A requester is not required to submit an appeal to the Board before commencing a civil action in circuit court to challenge a disclosure denial. If a circuit court determines that the requested record is not exempt from disclosure, the court will order the District to cease withholding or to produce all or a portion of the public record determined to have been wrongfully withheld. If the court determines that a disclosure denial was arbitrary and capricious, willful and intentional, or made in bad faith, the court will order that the District pay a civil fine to the state and punitive damages to the requester. If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced in the circuit court, the court will also require the District to pay the requester's reasonable attorneys' fees, costs, and disbursements. If the requester or the District prevails in part, the court may, in its discretion, award the District all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

b. Challenge to fee. If the District requires a fee (defined to include a deposit) that the requester believes exceeds the amount permitted under the FOIA or these publicly available Procedures and Guidelines, the requester may, within 45 days after receiving notice of the required fee, commence an action in the circuit court for the county in which the public record or the District's office is located.

i. If a court determines that the fee exceeds the amount permitted under the FOIA or these Procedures and Guidelines, the court will reduce the fee to the permissible amount (if any).

ii. If the requester prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.

iii. If the court determines that the District arbitrarily and capriciously violated FOIA by charging an excessive fee, or by acting in bad faith, the court will order that the District pay a civil fine to the state and punitive damages to the requester.

6. Questions

Any questions about these Procedures and Guidelines should be directed to the District's FOIA Coordinator.

7. Related Forms

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a. 3501-F-1 Sample FOIA Request Form
b. 3501-F-2 Sample Certificate of Non-Existence of Public Record
c. 3501-F-3 Standard Form for Detailed Itemization of Fee Amounts

Date adopted: June 25, 2025

Date revised: May 19, 2026

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Series 3000: Operations, Finance, and Property

3500 FOIA Requests and Record Retention

3501-F-1 Sample FOIA Request Form

[Date]

FOIA Coordinator
[Insert District Address]

Re: Freedom of Information Act Request

Dear FOIA Coordinator:

Pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., I am writing [to inspect / to copy / to obtain copies of] the following public records:

[Insert description of records sought]

Optional: Please provide a copy of the requested public records on [Insert description of desired non-paper physical medium, such as CD or flash drive].

Optional: Please waive or reduce the fee to search for or furnish copies of the requested public records on grounds that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

Optional: Please furnish the requested records without charge for the first $20 of the fee because (A) I am receiving public assistance [Insert specific description] or I am unable to pay the fee because of indigence; (B) I am not making this request in conjunction with outside parties in exchange for payment or other remuneration; and (C) I have not previously received discounted copies of public records from the [Public Body] twice during this same calendar year.

Optional: Please furnish the requested records without charge for the first $20 of the fee because (A) this request is made directly on behalf of a nonprofit corporation formally designated by the State of Michigan 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, or on behalf of its clients; (B) this request is made for a reason wholly consistent with the mission and provisions of those laws under Mental Health Code Section 931, MCL 330.1931; and (C) this request is accompanied by documentation of designation by the State of Michigan.

Optional: I am writing to request, pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., to subscribe for up to six months to the following future issuances of public records created, issued, or disseminated by [Public Body] on a regular basis: [Insert specific description].

Please contact me if you have any questions.

Sincerely,

[Requester Name]
[Requester Address]
[Requester Email]
[Requester Phone Number]

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3500 FOIA Requests and Record Retention

3501-F-2 Certificate of Non-Existence of Public Record

To be sent on District letterhead.

[Date]

[Requester's Name]
[Requester's Address]

Re: Freedom of Information Act Request Dated [_____], 20[__]

Dear [Mr./Ms. _____]:

[Insert District Name] is in receipt of your letter dated [_____], 20[__], regarding a request under the Michigan Freedom of Information Act ("FOIA"). Your letter was received on [Insert statutory receipt date]. You requested [Insert description of records sought].

I hereby certify, pursuant to Section 5(5)(b) of FOIA, that your FOIA request is denied because, to the best of my knowledge, information, and belief, no public records exist as of [Insert statutory receipt date], under the name(s) set forth in your request as detailed below, nor under another name reasonably known to the District. MCL 15.235(5)(b).

Right to Appeal Disclosure Denial
and Recover Attorneys' Fees and Costs

If a public body makes a final determination to deny all or a portion of a FOIA request, the requester may do one of the following at his or her option:

(1) Submit to the "head of the public body" (the Governing Board) a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or

(2) Commence an action in the circuit court to compel the public body's disclosure of the public records.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under section 10 of the FOIA, the court will award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award will be assessed against the public body liable for damages that kept or maintained the public record as part of its public function.

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If the circuit court determines in an action commenced under section 10 of the FOIA that the District arbitrarily and capriciously violated the FOIA by refusal or delay in disclosing or providing copies of a public record, or that the District willfully and intentionally failed to comply with FOIA or otherwise acted in bad faith, the court will award, in addition to any actual or compensatory damages, punitive damages as prescribed in FOIA to the person seeking the right to inspect or receive a copy of a public record. The damages will not be assessed against an individual but will be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

A full explanation of your right to seek either appeal or judicial review is set forth in Section 10 of the FOIA, MCL 15.240.

A copy of the District's FOIA Procedures and Guidelines is available on the District's website at [Insert District website].

Very truly yours,

[Insert Name]
FOIA Coordinator
[Insert District Name]

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3500 FOIA Requests and Record Retention

3501-F-3 Standard Form for Detailed Itemization of Fee Amounts

[Insert District Name]
FOIA Fee Itemization Form

Requester's Name: _____ Date on Request: _____

Date Received[i]: _____ Estimated Fee: _____ -or- Actual Fee: _____

If estimated fee is over $50, the District shall charge a good faith deposit of 50% of the estimated fee. Failure to pay the deposit within 48 calendar days of the District's notice constitutes abandonment, and the District is no longer required to fulfill the request.

Estimated date FOIA response will be available: _____

Labor Costs[ii]

Searching/Locating/Examining Records

_____ x $_____ + _____ = _____
Hours[iii] Hourly Wage Fringe Benefit[iv]

Separating and Deleting Exempt from Non-Exempt Information/Records

Employee

_____ x $_____ + _____ = _____
Hours[v] Hourly Wage Fringe Benefit

Contracted Labor (if any)

Name of person or firm engaged _____

_____ x $_____ = _____
Hours Hourly Wage[vi]

Duplicating or Publishing Records

_____ x $_____ + _____ = _____
Hours[vii] Hourly Wage Fringe Benefit

Non-Paper Physical Media

USB Flash Drives, CDs, DVDs, Other: _____ $_____

Postal Delivery Charges

Actual Cost of Mailing[viii] $ _____

Copying Costs for Paper Copies[ix]

Letter (8 ½" x 11") Cost per page $0._____ x # of sheets _____ = $ _____

Legal (8 ½" x 14") Cost per page $0._____ x # of sheets _____ = $ _____

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Discounts

Qualified for Discount ☐ Yes ☐ No If yes, subtract $20. ($_____)

☐ Indigence (maximum of 2 discounts per calendar year)

☐ State Designated Non-Profit (e.g., MPAS) (unlimited number of discounts)

Totals

½ Total Costs $_____

Total Discounts ($_____)

Total Due $_____

Date Delivered: _____ Date Paid: _____

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[i] A FOIA request is received on the date that it is hand-delivered or mailed to the District. A FOIA request is generally deemed as received one business day after a facsimile, email, or other electronic transmission.

[ii] A fee shall not be charged to search, locate, examine, review, or delete/separate/redact exempt from non-exempt information unless failure to charge would result in unnecessarily high costs to the District.

[iii] The hourly rate shall not be more than the hourly wage of the lowest-paid staff member capable of performing the labor in the particular instance. Labor costs shall be estimated and charged in increments of 15 minutes, with all partial time increments rounded down.

[iv] The District may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits. Under no circumstances shall the District charge more than the actual cost of fringe benefits.

[v] Labor costs shall be estimated and charged in increments of 15 minutes with all partial time increments rounded down.

[vi] Contracted labor costs must not exceed an amount equal to 6 times the state maximum hourly wage rate.

[vii] Labor costs for duplicating or publishing records may be estimated and charged in time increments of the District's choosing, with all partial time increments rounded down. The District has determined to charge labor costs for duplicating or publishing records in 15-minute increments

[viii] The public body shall not provide expedited shipping or insurance unless specifically requested by the requester but may otherwise charge for the least expensive form of postage delivery confirmation when mailing public records

[ix] The fee shall not exceed 10 cents per sheet of paper (one-sided or two-sided) for copies made on 8½ x 11-inch sheets of paper or 8½ x 14-inch sheet of paper.

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3500 FOIA Requests and Record Retention

3502 Record Retention

A "public record" means a writing prepared, owned, used, in the possession of, or retained by the District in the performance of an official function, from the time it is created.

The District will comply with all federal and state record retention requirements and with Michigan's general record retention schedules. Regardless of format, the District will make public records accessible for the applicable retention period.

A. The District will store its public records in a secure and stable environment, whether digital or physical, and protect them from tampering and damage.

B. Disposal of Records

   1. Once a public record has been retained for the duration required by law, the District may dispose of the public record unless the disposal or preservation of a public record is mandated by law or Policy.

   2. The District will not destroy a public record responsive to a FOIA request received before the date the record is destroyed until the District has produced the public record or determined it is exempt from disclosure.

C. Litigation, Investigation, or Audit Holds

   The Superintendent or designee will issue a hold directive to all persons suspected of having records that may relate to the potential issues in a reasonably anticipated or pending litigation, investigation, or audit. A hold directive overrides any records retention schedule that may otherwise call for the disposition or destruction of the records until the litigation, investigation, or audit hold has been lifted.

Legal authority: MCL 15.231-246; MCL 399.811; MCL 750.491; *General Retention Schedule Nos. 1, 2, 23, 26, 30, 31*

Date adopted: June 25, 2025

Date revised:

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