BERKLEY
SCHOOLS

FREEDOM OF INFORMATION ACT (FOIA)

PROCEDURE & GUIDELINES

BERKLEY SCHOOL DISTRICT
FOIA Procedures and Guidelines

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Introduction

As a public body under the Freedom of Information Act, the District has developed the following procedures and guidelines to implement and assure compliance with FOIA. The District has also created a written public summary of the specific procedures and guidelines explaining how to submit written requests to the District and how to understand the District's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal. The procedures, guidelines and written public summary shall be posted on the District's website.

The District shall ensure that free copies of the procedures and guidelines and public summary are readily available for public dissemination upon request at the District's central office. Both documents shall also be included with every written response to a public record request. However, this requirement may be satisfied by providing the requestor with the website link to the documents in lieu of providing paper copies in the response. The documents are available on the District's website at https://www.berkleyschools.org/our-district/board-of-education/freedom-of-information-act-foia.

Pursuant to the procedures and guidelines, the District's nonexempt public records, as defined under FOIA, are available for public inspection and/or copying. The rights and obligations of the District and requestors under FOIA are subject to MCL 15.231, et seq.

Inspection of records by the general public shall be limited to the regular office hours of the building or office that houses the records. Copies of records that are not exempt from disclosure will be available on request.

The District receives numerous requests or inquiries that are not public record requests under FOIA. This includes information readily available on the District's website, pamphlets, loose-leaf publications and other printed materials produced for public information and disclosure, such as the District's FOIA Procedures and Guidelines. Requests for such information should be directed to the District's Communication Supervisor at the Administrative Offices, 14501 Talbot, Oak Park, MI 48237.

Definitions

Unless indicated otherwise, the following definitions apply to the District's procedures and guidelines for receiving and processing requests for public records:

District: Berkley School District

FOIA: The Michigan Freedom of Information Act.

FOIA Coordinator*:* The individual designated by the District with authorization by the Board of Education to accept and process requests for public records and to decide denials under FOIA. Whenever the term "FOIA Coordinator" appears in these procedures and guidelines, the words "or designated representative" shall be assumed to follow. The delegation of authority of administrative action does not relieve the FOIA Coordinator of the responsibility of the actions of such designated representatives.

Person: An individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity or other legal entity. Person does **not** include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or a federal correctional facility.

Public Record: 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.

Redact: To black out exempt information on an otherwise nonexempt record.

Requestor: An individual who has submitted a public records request under FOIA to the District.

Unusual Circumstances: Any one or a combination of the following, but only to the extent necessary for the proper processing of a request:

(1) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.
(2) The need to collect the requested public records from numerous field offices, facilities or other establishments that are located apart from the particular office receiving or processing the request.

Writing*:* Handwriting, typewriting, printing, photostating, photographing, photocopying and every other means of recording, including letters, words, pictures, sounds or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.

Written Request: A writing that asks for information and includes a writing transmitted by facsimile, electronic mail or other electronic means.

FOIA Coordinator

The FOIA Coordinator is authorized to designate other District staff to act on his or her behalf to accept and process written requests for the District's public records and approve denials.

The FOIA Coordinator or designee shall perform the following duties:

- Logs public records request received by the District.
- Determines whether requested records/information exist under the name given by the requestor or by another name reasonably known to the District.
- Determines whether part or all of requested records is exempt and separates exempt from nonexempt records.
- Reviews records to be collected to determine estimated costs, if applicable, to be charged or waived due to indigency.
- Prepares necessary fee estimates based on the District's standard fee schedule and forwards the estimates to the requestor.
- Forwards response to the public records requestor within five business days of receipt of the request or within 15 business days, if an extension was claimed.
- Where applicable, upon receipt of required payments, mail requested records.
- Retains and maintains a copy of all written requests for public records on file for no less than one year.
- Consults with District legal counsel regarding legal issues associated with FOIA compliance.

Requests for Public Records

Any person (see "Definitions" above) can make a public records request under FOIA.

Requests to inspect or copy public records must be made in writing (including facsimile, email or other electronic transmission) to the FOIA Coordinator for the requested record(s) or his/her designee, and shall sufficiently describe the record to make compliance practicable by enabling the coordinator to identify and locate the record. If available, the date and title of the requested document should be included. Requests should include information broad enough to specify all desired information, but narrow enough to be practical when the date and title are unknown.

District staff shall forward written requests for public records to the FOIA Coordinator in a manner that is timely, consistent and in compliance with applicable law. All requestors will be treated equally unless a law specifically provides otherwise.

Requestors may include a contact telephone number in their request to allow a District employee to make contact to resolve issues, clarify the scope of a request or help identify a specific document containing the information sought.

FOIA only applies to existing records and does not require the District to collect information not available, or to research or answer questions. The District is only required to look for an existing record or document in response to a public records request. The District is not obligated to create a new record to comply with a request. However, when records are maintained in an electronic format, the District may be required to retrieve information in response to a public records request, which may result in the creation of a new document when the data is printed out on paper or saved in another type of electronic format.

The FOIA Coordinator shall file all requests and their dispositions in his/her office and make such reports as are requested by the Board. Filed requests shall be held for a period of at least one year.

Responding to a Public Records Request

The FOIA Coordinator shall first determine the scope of the public records request, which involves estimating the time required to search for, examine, separate/delete exempt information and/or copy the requested records.

The FOIA Coordinator shall then respond to a public records request within five business days unless otherwise agreed to by the requestor in writing. The receipt day shall be counted as day zero.

The FOIA Coordinator's response shall do one of the following:

- Grant the request.
- Issue a written notice denying the request.
- Grant the request in part and issue a written notice denying the request in part.
- Issue a notice extending for not more than 10 business days the period in which the District shall respond to the request.
- Issue a written notice indicating that all or a portion of the requested information is available on the District's website.

If applicable, the FOIA Coordinator shall inform the person making the request of the estimated cost for processing the request. If the estimated cost exceeds $50, the Coordinator shall require a good faith deposit of one-half of the estimated fee before processing the request. (See Fee Deposits on page 22.)

If the District plans to charge a fee in response to a public records request, the FOIA Coordinator shall issue a detailed fee itemization to the requestor and require that payment be made in full for the allowable fees associated with granting the request before the requested information is delivered.

Copies of the procedures, guidelines and public summary shall be included with every written response to a public records request. This requirement may be satisfied by providing the requestor with the website link to the documents in lieu of providing paper copies in the response. The documents are available on the District's website at https://www.berkleyschools.org/our-district/board-of-education/freedom-of-information-act-foia.

Late Responses. If the District does not respond to a written request in a timely manner as required by FOIA, the fees for labor costs may be reduced by five percent for each day the District exceeds the time permitted under FOIA for a response to a public records request, with a maximum 50 percent reduction. The reduction shall apply if the late response was willful and intentional and the written request included language that conveyed a response for information within the first 250 words of the body of a letter, facsimile 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 this act, on the front of an envelope , or in the subject line of an electronic mail, letter or facsimile cover page.

The reduction shall be noted on the detailed fee itemization.

Receipt Date

Receipt date for electronically transmitted requests is the business day after the electronic transmission is made. If a written request is sent by electronic mail and delivered to the District's spam or junk mail folder, the request is not received until one day after the District first becomes aware of the written request. The District shall note in its records both the time a written request is delivered to its spam or junk mail folder and the time the District first becomes aware of that request. The FOIA Coordinator shall review District spam and junk mail folders on a monthly basis.

For all other requests, receipt date is the day the request is received anywhere within the District.

Extensions

With respect to records that are determined not to be available or when there needs to be a delay in responding to the request because of unusual circumstances, the FOIA Coordinator will document the reason in a response that will be sent to the requestor as soon as possible. The District may extend the time responding to a FOIA request by no more than 10 business days. The response period, including the extension, must total no more than 15 business days from the receipt date.

Reasons for the extension may include, but are not limited to:

- Records are at another location.
- Need to locate and review a large number of records.
- Complexity of the request requires additional time for an adequate response.

An extension response will be issued by the FOIA Coordinator within the original five-day response period and will include the following information:

- Date the request was received by the District.
- Notification of the extension and the reason for it.
- Date by which a response will be issued.

Denials

The FOIA Coordinator shall examine each request to determine whether the record requested is exempt from disclosure under FOIA. If the FOIA Coordinator determines that the record is exempt or partially exempt from disclosure, he or she shall issue a signed written notice denying the request in full or in part. Such a denial shall be made within five days of receipt of the request unless otherwise agreed to by the requestor in writing, and shall include an explanation for the full or partial denial.

If the separation of exempt and nonexempt material is readily apparent to a requestor, the District shall generally describe the material exempted unless that description would reveal the contents of the exempt information and defeat the purpose of the exemption. A denial notice shall include this description if applicable.

The notice shall also include a full explanation of the requestor's right to seek an appeal of the denial to the District's Board of Education (see Fee Appeals on page 23) or to seek judicial review of the denial in circuit court and receive attorneys' fees and damages if the court determines the District violated FOIA and orders disclosure of all or a portion of a public record.

Certification of Nonexistence Records

If the District denies a public records request because the record as identified by the requestor does not exist, the District shall certify the nonexistence of the record. The FOIA Coordinator shall respond to the request by issuing a certificate that attests the public record does not exist under the name given by the requestor or by another name reasonably known to the District.

Inspections

The District will provide access to facilities during normal business hours for requestors wishing to examine and take notes from public records. If the records are available on the District's website, the District may refer the requestor to the website location in its response to the request.

Records may be inspected only at the Office of the FOIA Coordinator or at such other location as determined by the FOIA Coordinator, and may not be removed by the requestor during the inspection. To ensure the integrity of District files, a member of the District staff must be present throughout the inspection.

Electronic Transmissions

At the request of the requestor, the FOIA Coordinator shall make the arrangements for the record to be transmitted electronically via the medium selected by the requestor if the District has the technological capability to comply with the request.

If the transmission is by USB flash drive, the requestor is to provide the device at least two business day in advance. If the transmission is by email, the requestor must provide the proper address.

Website Records

If the FOIA Coordinator knows or has reason to know that all or a portion of requested information is available on the District's website, the District shall notify the requestor in its written response that all or a portion of the requested information is available on its website. The response, to the degree practicable in the specific instance, shall include a specific webpage address where the requested information is available.

If the requestor stipulates that the public records must be provided in a paper format or in a specific form of electronic media, the District shall provide the records in the requested format and charge the appropriate fee, which shall include a 100 percent fringe benefit multiplier that shall not exceed the actual costs of providing the information in the specified format.

Any public records available on the District's website are exempt from any fees associated with separating and deleting of exempt information from nonexempt information.

On the detailed fee itemization, the 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 what is available on the District's website.

Verbal Requests for Public Records

The District may provide requested information available in public records without receipt of a written request. If a verbal request is received for information available on the District's website, District employees shall, where practicable and to the best of their knowledge, inform the requestor about the District's pertinent website address. If the requested information is not on the District's website, a written request for the public record will be required.

Subscriptions

A person has a right to subscribe to future issuances of public records that are created, issued or disseminated on a regular basis. Requests for a subscription to documents or records regularly produced by the District must be accompanied by appropriate payment of estimated fees for the period of the subscription or by a credit card record to be used to charge fees on an ongoing basis. Subscriptions may run for up to six months and are renewable.

Denial Appeals

If a request to inspect or copy a record is denied, the person making the request may commence a civil action in circuit court to compel the District's disclosure of the public records.

Or, the requestor may appeal the decision by submitting the appeal to the President of the District's Board of Education for scheduling on the agenda of the next Board meeting. The written appeal shall state the word "appeal" and detail the reason(s) for requesting reversal of the denial.

The Board is not considered to have received the written appeal until the first regularly scheduled Board meeting following the submission of the written appeal.

The Board shall, within 10 business days after receiving the written appeal, do one of the following:

- Reverse the disclosure denial.
- Issue a written notice to the requestor upholding the disclosure denial.
- Reverse the disclosure denial in part and issue a written notice to the requestor.
- Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the Board shall respond to the appeal.

If the Board of Education fails to respond to the appeal, or if the Board upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requestor may seek judicial review of the nondisclosure by a commencing a civil action in circuit court.

The requesting party also has the right to receive attorneys' fees and damages as provided in Section 10 of FOIA if, after judicial review, the circuit court determines the District has not complied with FOIA and orders disclosure of all or portions of the public record.

Fees

"Fee" means the total fee or any component of the total fee calculated under Section 4 of FOIA, including any deposit.

The District may charge a fee for a public records search, for the necessary copying of a public record for inspection or for providing a copy of a public record under the District's procedures and guidelines. The fee shall be limited to actual mailing costs and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information. Labor costs shall be estimated and charged in increments of 15 minutes except as indicated below, with all partial time increments rounded down. If the time involved is less than 15 minutes, there will be no charge.

Labor Costs. Labor costs associated with the necessary searching for, locating and examining of public records will be charged at an hourly rate equal to the lowest-paid staff member capable of searching, retrieving and examining the information being sought by the requestor. This hourly rate shall be charged regardless of whether the staff member is available to perform the labor.

Labor costs directly associated with duplication or publication, including making paper or digital copies, or transferring digital public records to the requestor through electronic means, will be charged at an hourly rate equal to the lowest-paid staff member capable of necessary duplication or publication in the particular instance. This hourly rate shall be charged regardless of whether the staff member is available to perform the labor. Labor costs for this task shall be estimated and charged in increments of fifteen (15) minutes, with all partial time increments rounded down.

The portion of the labor costs associated with separating and deleting of exempt information from nonexempt information will be charged at an hourly rate equal to the lowest-paid staff member capable of separating and deleting exempt from nonexempt information. This hourly rate shall be charged regardless of whether the staff member is available to perform the labor. However, if the District does not employ a person capable of separating and deleting exempt from nonexempt information in a particular instance as determined by the FOIA Coordinator, it may treat necessary contracted labor costs used to perform the task in the same manner as employee labor costs when calculating the charges. The name of the contracted person or firm must be clearly noted in the fee itemization, and the total contracted labor costs shall not exceed an amount equal to six times the state minimum hourly wage rate.

The District shall not charge for labor directly associated with redaction if it knows or reasons to know that it previously redacted the public record in question and the redacted version is still in the District's possession.

Unreasonably High Costs. The District shall not charge for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information unless the failure to charge a fee would result in unreasonably high cost to the District because of the nature of the request in the particular instance. Under such circumstances, the District shall specifically identify the nature of the unreasonably high costs.

Costs for the search, examination review, and the deletion and separation of exempt from nonexempt information are "unreasonably high" when they are excessive and beyond the normal or usual amount for those services compared to the costs of the District's traditional FOIA requests. Some factors related to unreasonably high costs, but not limited to, include:

- Amount of labor/time needed to locate and search for requested records.
- The volume of files that have to be reviewed in order to locate the requested records.
- Amount of labor time needed to examine records to separate/redact exempt from nonexempt material.
- The available staffing to respond to the request.
- Amount of paper records that need to be copied.
- Amount of internal costs not budgeted for FOIA-related issues.

Nonpaper Physical Media Costs. For public records provided to a requestor on nonpaper physical media, the District may charge the actual and most reasonably economical cost of the computer discs, USB flash drives, or other digital or similar media.

Cost of Paper Copies. For paper copies of public records provided to a requestor, the District may charge 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 8½" x 14" paper. The District shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost savings are applicable.

Copies for nonstandard sized sheets of paper will reflect the actual cost of the reproduction.

Mailing Costs. The District will charge the actual cost of mailing and postal delivery confirmation for sending the public records in a reasonably economical and justifiable manner. The District shall not charge more for expedited shipping or insurance unless specifically stipulated by the requestor.

Fringe Benefits Costs. The District will add up to 50 percent to the applicable labor charge amount to cover or partially cover the cost of fringe benefits. The District will note the percentage multiplier used to account for benefits in the detailed fee itemization.

If a requestor stipulates that public records located on the District's website must be provided in a paper format or in a specific form of electronic media, the District shall provide the records in the requested format and charge the appropriate fee, which shall include a 100 percent fringe benefit multiplier that shall not exceed the actual costs of providing the information in the specified format.

Overtime Costs. Overtime wages will not be included in the calculation of labor costs unless overtime is specifically stipulated by the requestor and clearly noted in the detailed fee itemization.

Itemization. When calculating the labor costs, the District shall itemize fee components in a manner that expresses both the hourly wage and the number of hours charged.

Fee Discounts and Waivers. The FOIA Coordinator may waive or reduce the labor and duplication costs associated with other public records requests if he or she determines that the request is in the public interest.

No charge for the first $20 of a fee shall be made to an individual who submits an affidavit proving indigency or receipt of public assistance or, if not receiving public assistance, states facts showing inability to pay the cost because of indigency. If the requestor is eligible for the waiver, the District shall note the discount on the detailed fee itemization. If the requestor is ineligible for the waiver, the District shall inform him or her specifically of the reason for the ineligibility in the District's response to the public records request. A requestor shall be declared ineligible for the $20 waiver if any of the following apply:

- The individual has previously received discounted copies of public records from the District twice during the current calendar year.
- The individual requests information in conjunction with outside parties who are offering or providing other remuneration to the individual to make the request. The District may require a statement from the requestor in the indigency affidavit that the request is not being made in conjunction with outside parties for payment or other remuneration.

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, shall not be charged for the first $20 of a fee if the public records request meets all of the following requirements:

- The request is made directly on behalf of the organization or its clients.
- The request is made for a reason wholly consistent with the mission and provisions of the laws under the Section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931.
- The request is accompanied by documentation of its designation by the state pursuant to the District's request.

Fee Deposits. In response to a public records request, the District shall require a good faith deposit from a requestor before processing a public records request if the entire fee estimate or charge exceeds $50, based on a good faith calculation of the total fee. The deposit shall not exceed one-half of the total estimated fee as identified in a detailed fee itemization that shall accompany the request for the deposit.

A deposit required by the District is a fee.

The District's response shall also include a best efforts and good faith nonbinding estimate regarding the time frame it will take the District to comply with FOIA in providing the public records to the requestor.

Nonpayments and Increased Fee Deposits. If the District has granted and fulfilled a written request, but has not been paid in full the total amount of fees charged to the requestor, the District shall require a deposit of 100 percent of the estimated fee before it begins to process any subsequent public records requests from that individual if **all** of the following apply:

- The final fee for the prior written request was not more than 105 percent of the estimated fee.
- The public records made available contained the information being sought in the prior written request and are still in the District's possession.
- The public records were made available to the individual, subject to payment, within the District's good faith time frame estimate.
- Ninety days have passed since the District notified the individual in writing that the public records were available for pickup or mailing.
- The individual is unable to show proof or prior payment to the District.
- The District has calculated a detailed fee itemization that is the basis for the current increased estimated fee deposit.

The District shall not require an increased estimated fee deposit if **any** of the following apply:

- The individual is able to show proof of prior payment in full to the District.
- The District is subsequently paid in full for the applicable prior written request.
- Three hundred sixty-five days have passed since the individual made the written request for which full payment was not remitted to the District.

Fee Appeals. If the District requires a fee that exceeds the amount permitted under these procedures and guidelines or FOIA, the person making the request may commence a civil action in circuit court to pursue a fee reduction.

Or, the requestor may appeal the fee amount by submitting the appeal to the President of the District's Board of Education for scheduling on the agenda of the next Board meeting. The written appeal shall state the word "appeal" and detail the reason(s) for requesting the fee

reduction and how the required fee exceeds the amounts permitted under the District's procedures and guidelines or FOIA.

The Board is not considered to have received the written appeal until the first regularly scheduled Board meeting following the submission of the written appeal.

The Board shall, within 10 business days after receiving the written appeal, do one of the following:

- Waive the fee.
- Reduce the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the required fee. The determination shall include a certification from the Board that the statements in the determination are accurate and that the reduced fee amount complies with the District's guidelines, procedures and FOIA.
- Uphold the fee and issue a written determination to the requesting person indicating the specific basis under FOIA that supports the required fee. The determination shall include a certification from the Board that the statements in the determination are accurate and that the fee amount complies with the District's guidelines, procedures and FOIA.
- Issue a notice extending for not more than 10 business days the period during which the Board shall respond to the appeal. The notice shall include a detailed reason or reasons why the extension is necessary.

If the Board of Education fails to respond to the appeal, or if the Board upholds all or a portion of the fee that is the subject of the written appeal, the requestor may seek judicial review of the Board's determination by a commencing a civil action in circuit court.

Future Changes in Guidelines and Procedures

The District reserves the right to amend, revise or repeal all or any part of the preceding guidelines and procedures at any future time.

Effective Date: September 28, 2026