

DETROIT PUBLIC SCHOOLS PROCEDURES
GOVERNING FREEDOM OF INFORMATION ACT REQUESTS

The District is committed to complying with Michigan's Freedom of Information Act (FOIA) (MCL 15.231 et seq.) in the provision of public records. The law requires public bodies to establish procedures and guidelines and to create a summary of the procedures to assist the general public regarding how to submit requests and understand responses, deposit requirements, fee calculations and avenues for appeals.

I. REQUEST PROCESSING

To facilitate processing and ensure consistency, the District has designated a centralized location for the submission of FOIA requests. All requests to the District shall be forwarded directly and immediately to the:

Freedom of Information Act (FOIA) Coordinator
Office of the General Counsel
3011 W. Grand Blvd., Suite 1002
Detroit, MI 48202

Fax: (313) 873-4564 Email: foia.request@detroitk12.org

Requests should be as specific as possible and sufficiently describe the information or record to enable the District to identify and locate the record(s). Requestors should provide a return address, phone and email address, so that, if necessary, they can be contacted by the FOIA Coordinator for clarification of the request. Requests should be clearly identified as a "Freedom of Information Act Request". Although verbal and written requests are permissible, the District recommends that verbal requests be confirmed and submitted in writing using the paper or electronic Request for Freedom of Information forms available on the District's website <http://detroitk12.org/board>.

II. FOIA RESPONSE

Upon receipt of a request for information, the District shall endeavor to respond to the request in accordance with the FOIA. Once a written request is submitted to the FOIA Coordinator:

- a) The District has **five (5) business days to respond** to the request. Requests received by email or fax are considered received on the business day following the date of transmission.
- b) If a response cannot be provided within five (5) days, the District shall issue **one (1) ten day extension notice**. Information must be provided before the end of the extension period.

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All requests for information are to be forwarded to the FOIA Coordinator for handling and processing according to the Act. The FOIA Coordinator shall inform the Office of Communications of all requests received from media outlets. The FOIA Coordinator shall simultaneously forward the request on the date of receipt to the Office of the General Counsel (OGC) for a legal opinion and to the relevant departments for response. The OGC will provide a legal opinion to the FOIA Coordinator within 72 hours from receipt of the request. Upon receipt of the response(s) from the OGC and/or department, the FOIA Coordinator will provide the written response to the requestor. **The department should start working on the request immediately and forward the response to the FOIA Coordinator without waiting for a legal opinion.**

The District shall do either of the following:

- a) Grant the request – request fee in full or waive payment and produce the documents; or if fee greater than \$50.00 request good faith deposit;
- b) Deny the request – explain the basis for denial - the record is exempt or the record does not exist and explain the right to appeal or seek judicial review by circuit court with notification of right to attorney’s fees, costs and possible damages; or
- c) Grant in part and deny in part – describe redacted/deleted information; or
- d) Notify requestor of the ten (10) day extension, the reason for the extension and date when the District will respond.

The District’s failure to respond or provide notice of the ten (10) day extension is deemed a denial of the request.

When applicable (inc. upon receipt of a verbal request) the District will also inform a requestor that requested information is available on its website or inform the requestor of the pertinent website address. If the website address is included in the District’s written response and the requestor stipulates that the record be provided in paper format or another form, the District shall provide; however, a fee with a multiplier greater than 50% for benefits will be charged for labor costs.

Requestors should bear in mind the following regarding the Act:

- a) It is intended to ensure that interested parties may exercise their rights to access **existing** public records.
- b) There are stipulations and restrictions which **exempt certain records** from being released.
- c) **The District is not required to and will not create reports or materials, compile lists or perform non-routine analysis.**
- d) The District shall retain documents/records for not more than 1 year after providing a response.

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III. DEPARTMENT PROCESSING OF RESPONSIVE INFORMATION

Upon receipt of a written request, the FOIA Coordinator shall forward the request to the appropriate departments accompanied by a memorandum (the "FOIA Memorandum"). The FOIA Memorandum shall contain the following information: a) the date the request was received; and, b) the date the department's response is due. The department shall advise the FOIA Coordinator within two (2) working days from receipt of the FOIA Memorandum if the estimated time for production of documents will: a) exceed four (4) hours; and/or b) require in excess of five (5) days; or c) if there are unusual circumstances regarding request processing.

The Department must respond using the FOIA Memorandum and provide all that apply:

- a) whether an extension is needed;
- b) whether 4 or more hours is needed to locate and copy records;
- c) total number of pages or quantity of non-paper media copied for cost estimate;
- d) number of hours needed to search/locate, examine and delete and separate exempt from nonexempt materials in increments of 15 minutes;
- e) position of the lowest paid employee(s) capable of searching/retrieving and copying the information
- e) whether the records do not exist;
- f) whether the department is not in possession of the documents;
- g) the signature of the head of the department or designee; and
- i) the cost of digital copies.

Notice of extension can be issued for the reasons such as: a) records at another location; b) need to review a large number of records; or c) the complexity of the request requires additional time for an adequate response. Documents are to be produced and forwarded, as indicated on the FOIA Memorandum, with a copy of the FOIA Memorandum complete with cost information within 10 days. If, due to unusual circumstances, additional time is needed to respond, a request must be submitted as soon as possible to the FOIA Coordinator for review.

IV. COSTS, FEES AND GOOD FAITH DEPOSITS

In accordance with the Act, the District charges a fee for providing copies of public records. The District will charge all applicable costs permitted by Section 4 of the Act for each request received. Specific exclusions will be made only as provided by Section 4(2a) of the Act (the first \$20.00 fee waived for recipients of public assistance and/or if indigent).

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Individuals who are indigent and receiving specific public assistance and requesting a waiver of the first \$20.00 of the fee must submit an affidavit stating that the individual is receiving public assistance or if not receiving public assistance, the facts stating inability to pay the cost because of indigency. The waiver will be granted upon verification of indigence or public assistance status. An individual is ineligible for the waiver if any of the following apply:

- a) The requestor has received the waiver twice during the calendar year.
- b) The requestor is seeking the information in conjunction with other parties who are offering to pay them to make the request.

Commensurate with the FOIA, assessed costs will include:

1. Actual mailing costs;
2. Actual incremental costs of duplication and/or publication; and
3. Actual incremental labor costs including; the cost of search, examination, review, and the deletion and separation of exempt from non-exempt information as provided in Section 14 of the Act.

The District shall establish fees with charges for mailing and duplication, including labor, for providing public records. (See FOIA Fee Schedule, p. 8) The FOIA Fee Schedule will be published, reviewed and updated periodically as necessary. It shall serve as guidance in cases where charges are unspecified and include the following:

1. Mailing: Current actual cost of first class postage
2. Copying/Duplication: starting at \$.10 per page
3. Labor: Hourly wage rate, including benefits (50%), of the lowest paid capable employee for search, examination, review, separation and deletion of exempt from non-exempt information and duplication.

Copying/Duplication

The District shall use the most economical means for making copies, including using double sided printing, if cost saving and available. The District will provide records using non-paper physical media (e.g. tapes, cd, video, etc.) using available technology at the actual and most reasonably economical cost of the media.

Labor Costs

Labor costs will be calculated using the hourly wage, including fifty percent (50%) of any applicable fringe benefits, of the District's lowest paid employee capable of performing the necessary tasks to process the FOIA request. Fees will include the incremental labor cost of transferring paper copies to other requested formats. Labor costs in excess of that amount will be

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calculated in accordance with the Act and FOIA Fee Schedule. Labor costs will be calculated in 15 min. increments. Contracted labor costs shall not exceed 6 times the state minimum hourly wage. If the District does not provide its response in a timely manner, labor costs shall be reduced by 5% for each day the time permitted is exceeded with a max. 50% reduction.

For records to be provided on non-paper physical media (tapes, cd, video, etc.), the actual and most reasonably economical cost of the media will be charged.

If the search, retrieval, examination, review and separation and deletion of exempt from nonexempt information or computerized records, or any part thereof, require specialized knowledge of a program or database, the labor costs will be calculated using the hourly wage, including benefits, of the District's lowest paid specialist, technical, management or executive class employee capable of performing the necessary tasks to process the request in accordance with the FOIA Fee Schedule. Using the information provided by the department on the FOIA Memorandum and the FOIA Fee Schedule, the FOIA Coordinator shall determine the amount of fees to charge, if any. Wage and benefit information are based on DPS Human Resources compensation plans.

Good Faith Deposits

If the fees required to fulfill a request are reasonably expected to exceed \$50.00, a good faith deposit of one-half of the total estimated fee is required. The District will require payment of the fee in full before releasing the requested records. A requestor who has not previously paid the District for requested records will be required to pay a one hundred (100%) deposit before his/her request is processed if all of the following apply:

- a) the final fee for the prior request was not more than 105% of the estimated fee.
- b) the records contain the information sought and are still in the District's possession.
- c) the records were made available within the required deadlines.
- d) ninety (90) days have passed since the individual was notified in writing that the records were available for pickup.
- e) the individual is unable to show proof of prior payment.
- f) the District calculates an itemized fee that is the basis for the current written request's increased estimated fee deposit.

The increased estimated fee deposit shall no longer be required if any of the following apply:

- a) the requestor shows proof of the prior payment.
- b) the requestor pays for the prior request.
- c) one (1) year has passed since the requestor made the prior request for which no payment was remitted.

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V. DENIALS & APPEALS

A denial to a FOIA request must be issued in writing. A written denial must: a) state the basis under the Act or other statute that the records are exempt, if that is the basis for denial; b) certify the record does not exist, if that is the basis for denial; c) describe information/records redacted from disclosure where information/records are redacted; and d) provide a full explanation of the requestor's right to seek an appeal or judicial review, including the right to attorney fees.

1. Appeal of a FOIA Decision

Requestors may appeal the decision to deny a request for information by:

- a) Submitting a written appeal to the Chief Administrative Officer of the District, specifically identifying request as an "Appeal" and providing the reasons why the decision should be reversed; or
- b) Seeking judicial review in circuit court.

Once an appeal is submitted, the Chief Administrative Officer of the District has ten (10 days) to respond to the appeal and in some circumstances, notice will be given extending the time period for response an additional ten (10) days. A copy should be forwarded to the FOIA Coordinator. The OGC shall prepare the response to the appeal. In response to the appeal, the District shall do one of the following:

- i. Reverse the denial;
- ii. Uphold the denial; or
- iii. Reverse in part and uphold in part.

The Chief Administrative Officer's failure to respond to the requestor within ten (10) days or provide notice extending the time period to respond is deemed a denial of the appeal. The District can issue one ten (10) day notice of extension on an appeal.

2. Appeal of a FOIA Fee

Requestors may appeal the determination of the fee charged by:

- a) Submitting a written appeal to the Chief Administrative Officer of the District, specifically identifying request as an "Appeal" and how the required fee exceeds the amount permitted under the District's procedures; or
- b) Seeking judicial review in circuit court.

Once an appeal is submitted, the Chief Administrative Officer of the District has ten (10 days) to respond to the appeal and in some circumstances, notice will be given extending the time period for response an additional ten (10) days. A copy should be forwarded to the FOIA

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Coordinator. The OGC shall consult with the FOIA Coordinator to prepare the response to the appeal. The requested documents shall not be produced until the fee dispute is resolved. In response to the appeal, the District shall do one of the following:

- i. Waive the fee;
- ii. Reduce the fee and issue a written determination indicating the specific basis that supports the remaining fee; or
- iii. Uphold the fee and issue a written determination indicating the specific basis that supports the required fee.

The Chief Administrative Officer's failure to respond to the requestor within ten (10) days or provide notice extending the time period to respond is deemed a denial of the appeal. The District can issue one ten (10) day notice of extension on an appeal.

VI. REPORTING

Copies of FOIA requests from media outlets will be forwarded to the Office of Communications. The FOIA Coordinator will provide a report of all incoming FOIA requests and outstanding FOIA requests to the Chief Administrative Officer and members of Cabinet upon request. Annually, the FOIA Coordinator will provide a report to the Chief Administrative Officer on all FOIA requests processed for the fiscal year.

VII. NON-COMPLIANCE

Failure to respond to a FOIA request constitutes a denial that may subject the District to liability, damages and costs. District administrators and employees are required to adhere to all FOIA procedures. The FOIA Coordinator will report incidences of department non-compliance and non-responsiveness to the OGC. If after seven (7) days, no response is received, the Chief Administrative Officer will be notified in writing by the OGC.

The Detroit Public Schools Policy Governing Freedom of Information Act Requests is on the District's website at <http://detroitk12.org>. The Procedures Governing Freedom of Information Act Requests (with the FOIA Fee Schedule), as well as, the FOIA Procedures Summary are available at www.detroitk12.org/board/.

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FOIA FEE SCHEDULE	
COPY FEES	
Duplication per page (each side)	
8.5 x 11	\$ 0.10
8.5 x 14	\$ 0.10
11 x 17	\$ 0.30
Outsource Printing	Actual
Disks (Each)	\$ 5.00
Audio Tapes & Video Disks	Actual
Photos	\$ 1.00
MAILING COSTS	
U.S. First Class Postage Rates	Actual
Oversized Packages	Actual
LABOR FEE SCHEDULE*	
Classification of Lowest Paid Capable Employee	Total Hourly Wage Inc. Benefits (50%) and Taxes
General Office - Clerical Series II	\$ 16.14
General Office - Clerical Series III	\$ 22.23
General Office - Technical III	\$ 27.91
Financial Specialist IV	\$ 28.45
Program Associate II	\$ 28.11
Program Supervisor/Assistant Director	\$ 46.45
Director/Dep. Exe./Exe. Dir.	\$ 54.48
Assistant General Counsel	\$ 57.51
Executive Cabinet	\$ 95.32
*Rate of lowest paid employee capable of locating and retrieving documents.	