

# DETROIT PUBLIC SCHOOLS COMMUNITY DISTRICT

## SUMMARY OF PROCEDURES GOVERNING FREEDOM OF INFORMATION ACT REQUESTS

The Michigan Freedom of Information Act (the “Act”) at Section 4 requires Detroit Public Schools Community District (“DPSCD” or “District”) to establish a written public summary of its procedures and guidelines to assist the general public regarding how to submit Freedom of Information Act (“FOIA”) requests and explaining how to understand responses, deposit requirements, fee calculations and avenues for appeals. MCL 15.234(4)

### I. REQUEST PROCESSING

All requests to the District shall be submitted for processing to the Freedom of Information Act (“FOIA”) Coordinator, Fisher Building, 3011 W. Grand Blvd., Suite 1002, Detroit, Michigan 48202 *via* facsimile at (313) 873-4564 or email at [foia.request@detroitk12.org](mailto: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 phone number, in addition to a return address and email address, so that, if necessary, they can be contacted by the FOIA Coordinator to clarify a request. Requests should be clearly identified as a “Freedom of Information Act Request.” The District provides a downloadable Request for Freedom of Information Form, as well as, an electronic form on its website <http://detroitk12.org/admin/gc/>.

### II. FOIA RESPONSE

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 facsimile 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) notice of extension for not more than 10 business days. A response shall be provided within the extension period.

The District shall provide one of the following responses:

- (a) Grant the request. Depending on the request, the District will: (i) request a fee; (ii) waive payment; (iii) if fee greater than \$50.00, request a good faith deposit; or (iv) produce documents.
- (b) Deny the request. In a denial, the District will explain the basis for denial (*e.g.*, a record is exempt, the record does not exist, *etc.*) and the right to appeal or seek judicial review by circuit court with notification of right to attorney’s fees, costs and possible damages.
- (c) Grant the request in part and deny the request in part. In such a response, the District will describe redacted/deleted information.
- (d) Refer a requestor to the District’s website. When applicable (including upon receipt of a verbal request) the District will inform a requestor that requested information is available on the District’s website or inform the requestor of the pertinent website address.

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If a website address is included in the District's written response and the requestor still requests that the records be provided in paper format (or another form), the District shall provide the records. However, the District may use a fringe benefit multiplier greater than 50% in its charges for labor costs for production, not to exceed the actual costs of providing the records in the specified format.

- (e) Notify a requestor of the 10 business day extension. The notice will identify the reason for the extension and estimated date for the District's response.

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

### III. COSTS, FEES AND GOOD FAITH DEPOSITS

The District may charge a fee for providing copies of public records. Individuals who are indigent may receive a waiver of the first \$20.00 of the fee upon verification of indigence or public assistance status.

The District shall establish fees with charges for searching, reviewing associated with separating exempt from non-exempt materials, mailing and duplication, including labor, for providing public records according to the Act and as provided in its FOIA Fee Schedule. The FOIA Fee Schedule can be found on page 7 of the Procedures Governing Freedom of Information Act Requests at <http://detroitk12.org/admin/gc/>. The following is an overview of permitted fees:

- (a) Mailing: Current actual cost of first class postage.
- (b) Copying/Duplication
  1. Cost start at \$.10 per page.
  2. The District shall use the most economical means for making copies, including using double sided printing, if cost saving and available.
  3. The District will provide records using non-paper physical media (*e.g.*, tapes, cd, video, usb drive, *etc.*) using available technology at the actual and most reasonably economical cost of the media.
- (c) Nonpaper/Nonphysical Media
  1. Actual costs of tapes, usb drives, *etc.*
- (d) Labor
  1. Fees will be charged for search, examination, duplication and review for separation and deletion of exempt from non-exempt information.
  2. 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.
  3. If specialized knowledge is required to search, examine, review and separate exempt from nonexempt information, then, the labor costs will be calculated using the hourly wage and 50% of fringe benefits of the District's lowest paid specialist, technical, management or executive class employee capable of performing the necessary tasks.

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- Using the information provided by the department and the FOIA Fee Schedule, the FOIA Coordinator will determine the amount of fees to charge, if any. Wage and benefit information are based on DPSCD Human Resources compensation plans.
4. Fees will also be charged for the labor cost of transferring paper copies to other requested formats.
  5. Labor costs will be calculated in 15 minute increments.
  6. Contracted labor costs shall not exceed 6 times the state minimum hourly wage.

### **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. A requestor who has not previously paid the District for requested records will be required to pay a 100% deposit. The District will require payment of the fee in full before releasing the requested records.

## IV. DENIALS & APPEALS

### **Denials**

A denial of a FOIA request shall be issued in writing.

A written denial will: (i) state the basis under the Act, or other statute for denial (*e.g.*, records are exempt, certify that the record does not exist, *etc.*); (ii) describe information/records redacted from disclosure where information/records are redacted; and (iii) provide a full explanation of the requestor's right to seek an appeal or judicial review, including the right to attorney fees.

### **Appeals**

#### (a) Appeal of a FOIA Decision

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

1. Submitting a written appeal to the Superintendent, specifically identifying request as an "Appeal" and providing the reasons why the decision should be reversed; or
2. Seeking judicial review in circuit court.

In response to the appeal, within 10 business days the District will: (i) reverse the denial; (ii) uphold the denial; (iii) reverse in part and uphold in part; or (iv) under unusual circumstances, issue a notice of extension for not more than 10 business days.

A copy of the appeal must be forwarded to the FOIA Coordinator. The OGC may consult with the FOIA Coordinator to prepare the response to the appeal. The requested documents will not be produced until the appeal is resolved.

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A failure to respond to the requestor within 10 days or provide notice extending the time period to respond is deemed a denial of the appeal. The District can issue one (1) notice of extension for 10 business days.

#### (b) Appeal of a FOIA Fee

Requestors may appeal the determination of the fee charged by:

1. Submitting a written appeal to the Superintendent, specifically identifying request as an “Appeal” and how the required fee exceeds the amount permitted under the District’s procedures; or
2. Seeking judicial review in circuit court within 45 days.

In response to the appeal, within 10 business days the District will: (i) waive the fee; (ii) reduce the fee and issue a written determination indicating the specific basis that supports the remaining fee; (iii) uphold the fee and issue a written determination indicating the specific basis that supports the required fee; or (iv) issue a notice of extension for not more than 10 business days.

A copy of the appeal must be forwarded to the FOIA Coordinator. The OGC will consult with the FOIA Coordinator to prepare the response to the appeal. The requested documents will not be produced until the appeal is resolved and applicable fees paid (if any).

A 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 (1) notice of extension for 10 business days.

#### ***ADDITIONAL RESOURCES:***

DPSCD Freedom of Information Act Procedures & Guidelines Policy, DPSCD Procedures Governing Freedom of Information Act Requests (with the FOIA Fee Schedule) and this Summary are available at <http://detroitk12.org/admin/gc/>.