

MATTAWAN CONSOLIDATED SCHOOLS
FREEDOM OF INFORMATION ACT
PROCEDURES & GUIDELINES

INTRODUCTION

Mattawan Consolidated Schools (the "District") is committed to performing its obligations to provide information to the public as required by the Michigan Freedom of Information Act ("FOIA"), MCL 15.231, *et seq.* The District provides these procedures and guidelines to assist the public in determining how the District will implement its obligations under FOIA. While the District may invoke certain exemptions in response to FOIA requests, as permitted by law, it will implement both the production and the exercise of its right to invoke exemptions in a manner that is fair, consistent, and unbiased.

PROCESS FOR SUBMITTING A REQUEST

The District designates the Director of Human Resources as its FOIA coordinator. The FOIA coordinator may authorize other personnel to act on his or her behalf. All FOIA requests should be addressed and sent to 56720 Murray Street, Mattawan, Michigan 49071 if sent by mail, 269-668-2372 if sent by fax, and hr@mattawanschools.org if sent by e-mail.

FOIA requests must be submitted in writing. A request from a person other than an individual who qualifies as indigent must include the requesting persons' complete name, address and contact information. If a request is made by a person other than an individual, this same information must be provided for the person's agent. The address must comply with USPS standards and the contact information must include a valid telephone number or electronic mail address.

The requests may be submitted in person, by mail, by facsimile, or by e-mail. If the request is received by facsimile or e-mail, it will be considered received on the following business day after transmission. If it is sent by mail, it will be considered received on the date that it is delivered by the U.S. Postal Service to the District. In the event that an e-mail request goes into the District's spam or junk mail folder, it will be considered received on the day after the District first becomes aware of the request. The FOIA Coordinator will review its spam and junk mail folders on a regular basis, no less than once a month, in an effort to determine whether any FOIA requests have been delivered into the spam or junk mailboxes.

The District does not require that a person making a FOIA request use a specific form. However, the written request must sufficiently describe the record(s) that the person is seeking so that the District is able to identify and locate the requested public record(s).

The District is not obligated to create documents or to compile or summarize information in order to comply with its obligations under FOIA. Additionally, neither the FOIA Coordinator nor other District employees are required to provide answers to questions that may be contained in a FOIA request, including questions regarding the content of the requested records.

PROCESSING A REQUEST

The District will respond in writing to a FOIA request within five (5) business days of receipt, as defined above, unless otherwise agreed to in writing by the person making the request. The response will be one or more of the following:

- Notification that the request is granted;
- Notification denying the request;
- Notification that the request is granted in part and denied in part;
- Notification that the District needs an additional ten (10) business days to respond to the request (the District may only request one such extension);

The response will also include a copy of these procedures and guidelines.

If the request is granted in whole or in part, the FOIA Coordinator will provide a detailed itemization of allowable costs on the District's standardized Itemization of Allowable FOIA Charges form ("Form"). A deposit may be required, as explained on the Form, however, in all circumstances, payment is required before the documents requested will be provided to the requesting party.

If the request is denied in whole or in part, the FOIA coordinator will issue a notice of denial which may include the following information, as applicable:

- An explanation as to why the requested record is exempt from disclosure;
- Certification that the requested record does not exist as described by the requestor or that the District is not reasonably able to identify the document;
- Whether another public record or information within the requested public record has been separated from or deleted from the documents being produced.

Additionally, the FOIA coordinator, in circumstances involving a denial will provide:

- An explanation of the requester's right to submit an appeal to the District Supervisor or to seek judicial review of the denial in the Van Buren County Circuit Court; and
- An explanation of the requester's right to receive attorneys' fees, costs, and disbursements, in addition to actual or compensatory damages and punitive damages if he/she prevails in Circuit Court.

If the FOIA coordinator in his/her discretion seeks clarification or amendment of a request that is deemed deficient, the requesting party's submission of clarification or amendment will be considered a new request retriggering the timelines described above.

The requested records, to the extent the request is granted, may be reviewed during normal business hours. The FOIA coordinator is charged with developing the process by which this viewing will occur. Certified copies of a public record will be provided, upon request, at no additional cost to the person requesting the public record.

If a person makes a FOIA request and asks for the records to be produced by non-paper physical media, the District will comply with this request if it is technologically capable of doing so.

ALLOWABLE FEES

The District may charge fees, as allowed by statute, relating to the cost of search, examination, review, and redaction or separation of exempt from non-exempt information. The District may only charge a fee for labor costs if the failure to charge a fee would result in unreasonably high cost to the District because of the nature of the request. If a fee is charged for labor costs, the District must specifically identify the nature of the unreasonably high costs.

In all situations where a fee will be charged by the District for responding to the FOIA request, the FOIA Coordinator will provide the requesting party with a detailed itemization of the allowable costs estimated to be or actually incurred to process the request as well as a best effort estimate of the time frame it will take to provide the records on the above referenced Form. This estimate is not binding on the District, but it will attempt to comply with the estimate.

The District may charge only for specified costs. The following costs may be charged, as appropriate, for processing a FOIA request:

- Labor costs directly associated with searching for, locating, and examining a public record;
- Labor costs associated with the review of the public record to separate and redact information that is exempt from disclosure from information that will be disclosed;
- The actual costs of computer discs or other digital or similar media used to produce the requested information;
- The cost of copying records, not including the labor costs, when paper copies are requested or appropriate;
- The costs of the labor associated with copying records or other publication of the records, including digital copies or transferring of digital records to non-paper physical media;
- The actual costs of mailing or sending a public record to the requester.

The following requirements apply to all labor costs associated with processing a FOIA request:

- All labor costs, except those associated with copying or otherwise transferring non-paper records to non-paper physical media, will be estimated and charged in 15-minute increments with all partial time increments rounded down;
- The costs of labor associated with duplication or transferring records to non-paper physical media will be charged in time increments of 5 minutes with all partial increments rounded down;

- Labor costs will be charged at the hourly rate of the lowest paid District employee capable of doing the work in the specific area, regardless of whether that person actually performs the work;
- In the event that the District uses a contractor or outside labor to separate and redact exempt material from non-exempt material, it will identify the name of the person or firm who does this work. In such circumstances, the total labor cost charged will not exceed an amount six (6) times the minimum hourly wage in the State of Michigan;
- Labor costs also include a charge to cover or partially cover the cost of fringe benefits. To cover this cost, the District may add up to 50 percent of the applicable labor charge amount to cover or partially cover the cost of fringe benefits, however, this amount shall not exceed the actual cost of fringe benefits;
- Overtime wages will not be included in labor costs unless agreed to by the requesting party. Overtime costs will not be used to calculate fringe benefit costs in any circumstances.

If it is requested to do so and is technologically capable of doing so, the District will provide records on non-paper physical media. If this occurs, the following terms apply: computer disks, tapes, or other digital or similar media will be charged at the actual and most reasonably economical cost. Requests to produce documents on non-paper media will be filled using the District's technological infrastructure.

The District will charge the following fees, as appropriate, if it provides paper copies of records. The fees will be assessed as follows:

- Copies of public records on standard letter (8 1/2 x 11) or legal (8 1/2 x 14) sized paper will not exceed 10 cents per sheet of paper;
- Copies for non-standard sized sheets of paper will be charged at the actual costs of reproduction;
- If available and would result in cost savings, the District may provide records using double-sided printing.

If the records are to be provided to the requester by mail, the District will charge the following:

- The actual cost to mail public records using a reasonably economical and justified means;
- The least expensive form of postal delivery confirmation;
- If the District elects to send the materials by expedited shipping or to insure the shipment, the requester will not be charged for this unless this is done at the requester's request.

All of the above costs must be reduced if the District does not respond to a written request in a timely manner. In the event that this occurs, the costs will be reduced as follows:

- The labor costs will be reduced by five (5) percent for each day by which the District exceeds the time permitted under FOIA to respond. The maximum reduction required shall be 50 percent;
- The reduction described in the preceding bullet point will only be given, however, if the late response is willful and intentional, or the written request includes a request for information with the first 250 words of the body of any written request, including an e-mail attachment, or the written request includes "Freedom of Information," "FOIA," "copy" or any recognizable variation of the preceding or a legal code reference to MCL 15.231, *et seq.* or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter, or facsimile cover page;
- Any charge reductions will be fully noted in the detailed itemization of costs form.

FEE WAIVER

The District has the option to waive or reduce a fee in its sole discretion if it determines that waiving or reducing a fee is in the public interest.

Additionally, the District will waive the first \$20 of the processing fee if the person requesting a public record is indigent. To prove that the requester is indigent, he/she must present an affidavit stating that he/she is indigent and receiving specific public assistance, or, if he/she is not receiving public assistance, setting forth the facts demonstrating an inability to pay because of indigency. However, a requester is not entitled to receive this waiver if the requester has previously received discounted copies of public records two or more times during the calendar year or makes the request on behalf of other persons who are offering to or providing payment to the person for making the request.

Additionally, the District will waive the first \$20 of the processing fee for a non-profit organization designated by the state as carrying out activities under Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act 200 and the Protection and Advocacy for Individuals With Mental Illness Act. The fee waiver will only be implemented, however, if the request is made directly on behalf of such an organization or clients, is made solely for a reason consistent with the mission and provisions of Section 931 of the Mental Health Code, and the request is accompanied by documentation that the requesting organization is so designated by the State of Michigan.

DEPOSIT

The District is entitled to request a deposit in certain circumstances.

If you do not pay the requested deposit within 45 days after you receive notice that a deposit is required, and you have not appealed the amount requested, your request will be considered abandoned and the district will no longer be required to fulfill the request. You will be considered to have received notice three (3) days after the notice of a deposit requirement is sent, regardless of the means of transmission.

If, based on a good faith calculation of the estimated fees, the District determines that the fee estimate is expected to exceed Fifty Dollars (\$50.00), it will ask the requester to provide a deposit of not more than one-half (1/2) of the total estimated fee.

If the requester has requested documents under FOIA from the District in the past and has not fully paid the fee associated with such request or requests, the District will require a deposit of 100 percent of the estimated processing fee before it begins to search for the public record(s) in any subsequent request. This will only apply, however, if:

- The final fee for the prior written request was not more than 105 percent of the estimated fee;
- The public records made available in the prior written request contained the information sought in the request and remain in the District's possession;
- The records requested were made available to the individual, subject to payment, within the time frame that the District estimated necessary to provide the records;
- At least 90 days has passed since the FOIA Coordinator notified the individual that the previously requested records were available for pick-up or mailing;
- The requesting individual is unable to provide proof of payment;
- The FOIA Coordinator has calculated the detailed itemization of the current written request fee estimate to determine the amount of the deposit.

However, the District will not require the increased estimated fee deposit in situations where:

- The person making the request shows proof of payment of the prior fee;
- The person pays the District in full for the prior written request; or
- 365 days have passed since the person made the request for which payment was not fully made.

APPEAL RIGHTS RELATING TO DENIAL OF A REQUEST

If all or a portion of a FOIA request has been denied by the District, the requester may, if he or she believes the request has been improperly denied or exempted from disclosure, file an appeal of the denial with the Superintendent. The appeal must be in writing, must expressly include the word "appeal" in the written document and must identify, with specificity, the reason or reasons that the requester believes the decision should be reversed.

After receipt of a compliant appeal, the Superintendent will review the appeal and, within ten (10) business days of receipt of the appeal, respond. The response may be a reversal of the denial, an affirmation or upholding of the denial, or a partial reversal of the denial. In the event that the Superintendent needs to review a voluminous amount of materials or needs to collect records from multiple locations, the Superintendent may notify the requester that he/she is extending the period of time due for his/her response for not more than an additional ten (10) business days.

A requester may also file a civil action in the Van Buren County Circuit Court within 180 days after the District issues its final determination denying, in whole or in part, the request for public records. The requester may file such an action regardless of whether he/she seeks an appeal from the Superintendent as described above.

If the Van Buren County Circuit Court determines that the public record withheld or redacted by the District is not exempt from disclosure, it will award the requester his/her reasonable attorney's fees, costs, and disbursements. This award may be limited to only a partial amount if the court determines that the requester prevails on only part of his/her appeal.

If the court finds that the District arbitrarily and capriciously violated FOIA by refusing or delaying the disclosure of the requested records, it shall award punitive damages against the District and in favor of the requester in the amount of \$1,000. The District shall also be ordered in that circumstance to pay a civil fine of \$1,000 to the general fund of the State of Michigan treasury.

APPEAL RIGHTS RELATING TO A PROCESSING FEE

A requester may appeal the amount of the fee charged by the District to process his/her FOIA request. To do so, he/she must submit a written appeal for a fee reduction to the FOIA Coordinator. The appeal must specifically state the word "appeal" in the document and specify how the requester believes the charge exceeds the amount permitted by law.

Within ten (10) business days after receiving a fee appeal, the FOIA Coordinator will respond in writing. The response will be either a waiver of the fee, a reduction of the fee, or an affirmation of the fee. In the event the fee is reduced or is affirmed, the FOIA Coordinator shall also certify that the statements in his/her determination are accurate and the fee amount complies with the procedures and guidelines of the District and Section 4 of FOIA. In the event the FOIA Coordinator needs more than ten (10) business days to respond to a fee appeal, he/she shall issue a notice providing the reasons for the extension and the length of the extension, which shall not exceed more than ten (10) additional business days.

A requester may appeal the FOIA Coordinator's determination of a fee appeal within 45 days after receiving notice of a determination. The requester may do so by filing a civil action in the Van Buren County Circuit Court. If a civil action is filed, the District may withhold processing and/or producing the request until the court resolves the dispute.

The court may reduce the fee charged by the District if it determines that the fee exceeds the amount permitted by law. If the reduction is 50 percent or more of the total fee, the court may also award an appropriate amount of reasonable attorney's fees, costs, and disbursements to the requester. If the court determines that the District acted arbitrarily and capriciously by charging an excessive fee, the court will also award punitive damages in favor of the requester in the amount of \$500. Additional penalties may be imposed by a court in the situation where it determines the District inappropriately denied a public record or charged an excessive fee as allowed by statute. Any such fines will be deposited into the general fund of the State of Michigan treasury.

If you still have questions after reviewing this document, you may contact the FOIA Coordinator. The District reserves the right to revise its procedures and guidelines to allow more efficient and effective administration of its obligations under FOIA and/or to comply with applicable law.