

# PUBLIC SUMMARY OF THE DISTRICT'S FOIA PROCEDURES AND GUIDELINES

## *Chelsea School District*

The following questions and answers are intended as a public summary of the procedures and guidelines instituted by the Chelsea School District (the "District") to comply with the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

- [FOIA Procedures and Guidelines](#)

### **What is required in a FOIA request?**

To submit a request to inspect, copy, or receive copies of a public record under FOIA, a person must submit a written request with a sufficient description of the public record. A special form is not required.

### **What can I request?**

Public records prepared by the District or within the District's possession that are not exempt from disclosure under Section 13 of the Michigan Freedom of Information Act (MCL 15.243).

A subscription to future issuances of public records that are created, issued, or disseminated on a regular basis. A person can request a subscription for up to 6 months, and subscriptions are renewable.

A certified copy of a public record.

A public record sent to you by email or provided in another nonpaper form, as long as the District is technologically capable of doing so.

### **Who should the request be made to?**

You should direct your FOIA requests to the District's **FOIA Coordinator**. The requests can be mailed, emailed, faxed, or delivered by hand. The contact information for the District's FOIA Coordinator is:

Superintendent/FOIA Coordinator  
Chelsea School District  
500 Washington Street  
Chelsea, MI 48118  
(734) 433-2208  
[foia@chelsea.k12.mi.us](mailto:foia@chelsea.k12.mi.us)

### **How long does the District have to respond to my FOIA request?**

The District has 5 business days to respond, unless you specifically give the District permission to respond after 5 business days have passed.

## **What kinds of responses are possible?**

In response to your FOIA request, the District may:

1. Grant the request and provide you with access to the requested records or with copies of the requested records.
2. Deny your request.
3. Grant the request in part and deny the request in part.
  - o If part of your request is denied because it is exempt from disclosure under Section 13 of FOIA, you will receive a written notice describing the part of the record that was determined exempt and excluded.
4. Give you written notice extending for no more than 10 business days the time it has to respond to the request.
5. Tell you that the information you requested is available for free on the District's website, and give you the specific webpage address where the information can be found. You will not be charged a fee for records available to the public on the District's website unless you want the records provided in another format, like paper copies.

## **What must the District tell me if it denies my FOIA request?**

If the District denies your FOIA request, the District must provide you with a written notice containing the following information:

If applicable, an explanation that the requested record, or part of the record, is exempt from disclosure under Section 13 of FOIA, or under another statute.

- If applicable, a certificate that the public record does not exist.
- An explanation of your right to appeal the decision. The appeals process is discussed further below.
- The signature of the individual responsible for denying your request, whether it be the FOIA Coordinator or another District employee that the FOIA Coordinator has designated to respond to and process FOIA requests on his or her behalf.
- Notice of your right to receive attorneys' fees and damages, as provided under FOIA, if a court determines that the District did not comply with FOIA and the court orders the District to disclose all or part of a public record.

## **How do I appeal the District's decision to deny my FOIA request?**

Appeal to the School Board - If your FOIA request was denied, you can appeal that decision to the District's Board of Education (the "Board"). To do so, you must submit a written appeal to the Board that specifically states the word "appeal" and gives the reasons that you think the denial should be reversed. The Board then has 10 business days to:

- Reverse the previous denial of your FOIA request and grant your request;
- Issue a written notice upholding the denial;
- Under unusual circumstances, issue a written notice extending the time for responding by no more than 10 business days.

File Action in Circuit Court - If you do not want to appeal to the Board, then you have the right under FOIA to file an action in court to require the District to disclose the public records. You have 180 days from the day your FOIA request was denied to file a civil action in Wayne County Circuit Court to require the District to disclose the public records.

### **Is there a fee for the public records?**

As permitted by FOIA, MCL 15.234(1), the District charges a fee to cover the costs of responding to a FOIA request, except in some circumstances discussed further below.

### **How is the fee calculated?**

The District's standard form for detailed itemization of fees will be used to calculate the fees owed for each FOIA request. The form can be found in Administrative Guideline 8310F.

The fee is calculated by adding together:

1. Labor costs of searching for, locating, and examining public records in order to fulfill a granted written request.
  - The District will not charge you for this particular cost unless the failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the FOIA request.
  - If the District does charge for you for this particular labor cost, it must specifically identify the nature of these unreasonably high costs.
  - If you are charged, the District will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in the particular instance, regardless of whether that person is available or who actually performs the labor.
  - This cost is determined using the number of 15 minute increments required to perform the task.
2. Labor costs of separating and deleting information exempt from disclosure.
  - The District will not charge you for this particular cost unless the failure to charge a fee would result in unreasonably high costs because of the nature of the FOIA request.
  - If the District does charge for you for this particular labor cost, it must specifically identify the nature of these unreasonably high costs.
  - If you are charged, the District will not charge more than the hourly wage of its lowest-paid employee capable of separating and deleting the information exempt from disclosure in the particular instance, regardless of whether that person is available or who actually performs the labor.
  - This cost is determined using the number of 15 minute increments required to perform the task.
3. If the requester asked for records in non-paper form, the actual and most reasonably economic cost of the nonpaper physical media, whether it be computer discs, computer tapes, or other digital media.
4. For paper copies, \$0.10 per page.
5. Labor costs of making paper or digital copies, or other types of duplication or publication - This cost is determined using a time increment of the District's choosing and the hourly wage of the

District's lowest-paid employee capable of necessary duplication or publication in the particular instance, regardless of whether that person is available or who actually performs the labor.

6. Actual cost of mailing - If you requested that copies of records be mailed to you, the least expensive form of mailing with postal delivery confirmation will be used unless you have requested another form of mailing, like certified mailing or insurance.

### **Are there any fee waivers or reductions available?**

Fee waivers/reductions are available for certain individuals and organizations. Such waivers/reductions will be noted on the District's standard form for detailed itemization of fees when calculating the fees owed for each FOIA request. The form can be found in Administrative Guideline 8310F.

Indigency - The District will waive the first \$20.00 in fees for a FOIA request made by an individual who receives public assistance or can prove indigency, for up to 2 separate FOIA requests each calendar year.

To be eligible, an individual should submit an affidavit with his or her FOIA request. In the affidavit, the individual must state:

1. That he or she is indigent and receiving public assistance OR Facts showing inability to pay the cost because of indigency;
2. He or she is not making the FOIA request for an outside party in exchange for payment or other compensation; and
3. He or she has not already received more than one waiver in that calendar year.

Michigan Protection and Advocacy Service, Inc. - The District shall comply with MCL 15.234(2)(b) and waive the first \$20.00 of the fee for each FOIA request made by the Michigan Protection and Advocacy Service, Inc, or any successor organization formally designated by the state to carry out activities under subtitle C of the developmental disabilities 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, if the request meets all of the following requirements:

1. It is made directly on behalf of the organization or its clients.
2. It is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, MCL 330.1931.
3. It is accompanied by documentation of its designation by the state, if requested by the public body.

### **When do I have to pay?**

Generally, you do not have to pay the fees discussed above until the District has processed your request and the public records are ready to be mailed, picked up, or otherwise distributed to you.

However, if the estimated cost for processing your FOIA request is more than \$50.00, then you will be required to pay 50% of the estimated cost before the District will begin processing your request. The estimated cost will be determined using the District's Standard Form for Detailed Itemization. You will be provided a copy of this form when you are asked to pay your deposit.

The District will also require you to pay a deposit if you previously made a FOIA request but did not pay the total amount due for processing the request. In that case, you will be required to pay a deposit of 100% of the estimated fee before the District will begin processing your request. See the District's Administrative Guideline, 8310A, for more information.

**What if I do not agree with the amount the District says I have to pay?**

If you disagree with the fee amount you are instructed to pay, you can first appeal to the Board by submitting a written appeal for a fee reduction. It should specifically state the word "appeal" and should say how the fee exceeds the amount permitted by the District's FOIA Procedures and Guidelines or by the Michigan FOIA, MCL 15.234.

If the Board denies your request for a fee reduction or does not respond within 10 business days, you can file a civil action in Wayne County Circuit Court for a fee reduction. You have 45 days from the date your request for a fee reduction was denied or the FOIA Coordinator instructed you to pay the fee to file the action.

**Where can I find more information?**

- The Freedom of Information Act can be accessed at the [Michigan Legislature's website](#).

**CHELSEA SCHOOL DISTRICT  
FREEDOM OF INFORMATION ACT  
PROCEDURES & GUIDELINES**

It is the policy of the Chelsea School District (the “District”) that all persons are entitled to full and complete information regarding governmental decision-making, consistent with the Michigan Freedom of Information Act (the “FOIA” or the “Act”), except as noted.\*\*

For purpose of these procedures and guidelines, 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. Public record does not include computer software.

Procedures & Guidelines:

**I. GENERAL INFORMATION**

1. All officers, employees, and agents of the District shall protect public records from loss, unauthorized alteration, mutilation, or destruction.
2. The Executive Assistant to the Deputy Superintendent for HR/General Counsel is hereby designated the “FOIA Coordinator” with the authority and responsibilities stated in the Act and these procedures and guidelines.
3. The FOIA Coordinator shall be responsible to accept and process all written requests for public records under the Act and shall be responsible for approving a denial under Section 5 of the Act (MCL 15.235).
4. These procedures and guidelines regarding time frames, appeals, and fees do not apply to public records prepared for, or disclosed pursuant to another act or statute (i.e., requests for medical records made pursuant to the Public Health Code, or requests made pursuant to the Public Employment Relations Act or the Bullard-Plawecki Employee Right to Know Act, etc.).

**II. WRITTEN REQUESTS**

1. All individuals desiring to inspect or receive a copy of a public record shall make a written request to the FOIA Coordinator that describes the public record sufficiently to enable the FOIA Coordinator, or his/her designee, to identify and locate the public record.
2. The FOIA Coordinator, or any other designee, is not required to respond to oral requests for public records, but may do so for routine requests that can be granted immediately.
3. If a written request is received directly by a District employee other than the FOIA coordinator, the original shall be promptly forwarded to the FOIA Coordinator. The date the District employee receives the request shall be considered the date the request is validly received by the District, for the purpose of determining when a response is due.

4. A written request made by facsimile, electronic mail, or other electronic transmission is not received by the FOIA Coordinator until one business day after the electronic submission is made. If a request is delivered to a spam or junk mail folder, the request is not received by the FOIA  
  1. Coordinator until one business day after it is discovered.
5. Upon receiving a written request for a public record pursuant to these procedures and guidelines, a person or entity has the right to inspect, copy, or receive copies of the requested public record(s), unless the requested public record is exempt from disclosure pursuant to Section 13 of the Act (MCL 15.243), as amended. If the exempt status of any request is questioned, legal counsel should be consulted. New public records, compilations, summaries, and/or reports of information shall not be created in response to a FOIA request.
6. Upon request for public inspection, the FOIA Coordinator, or any other designee, shall furnish a requestor a reasonable opportunity for inspection and examination of the requested public records, subject to applicable exemptions, and shall furnish reasonable facilities for making memoranda or abstracts from its public records during regular business hours.
7. A requestor may stipulate that the public records be provided on nonpaper physical media, electronically mailed, or otherwise electronically provided to him or her in lieu of paper copies. Notwithstanding the foregoing, such stipulation must be within the technological capabilities of the District.
8. A person or entity may subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription shall be valid for up to six months, at the request of the subscriber, and shall be renewable.
9. If a requested public record may be obtained on the District's website or webpage, the FOIA Coordinator shall notify the requestor in writing of such availability and provide the direct internet address or link to obtain such public record. If, after receiving such written notification from the FOIA Coordinator, the requestor notifies the District that he or she continues to want the District to provide a copy of the available public record, in any format, the District shall process such request and may impose additional labor costs as specified within Article IV below.

### **III. REQUEST PROCESSING**

1. When the District receives a written request for a public record, the FOIA Coordinator, or any other designee, shall, in not more than five (5) business days after the District receives the request, respond to the request by one of the following:
  - a. Grant the request.

- b. Issue a written notice to the requestor denying the request.
  - c. Grant the request in part and issue a written notice to the requestor denying the request in part.
  - d. Issue a written notice extending, for not more than ten (10) business days, the period during which the District shall respond to the request.
2. Any failure to respond to a written request as provided for above constitutes the District's determination to deny the request.
3. Any written response denying a request for a public record, in whole or in part, is a final determination to deny the request or portion of that request. A denial response should contain the following:
  - a. An explanation of the basis under the Act or other statute for the determination that a public record(s), or portion(s) thereof, is exempt from disclosure, if that is the reason for denying all of part of a request.
  - b. A statement that the public record(s) do not exist under the name/description given by the requestor or by another name reasonably known to the District.
  - c. A description of a public record(s) or information on a public record that is separated or deleted if such separation or deletion is made.
  - d. A full explanation of the requestor's right to either file an appeal with the Superintendent or designee or seek judicial review of the denial pursuant to Section 10 of the Act (MCL 15.240).
  - e. Notice that a requestor may receive attorneys' fees and damages pursuant to the Act if the Court determines that the District has not complied with Section 5 (MCL 15.235) of the Act and orders disclosure of all or a portion of a public record.

#### **IV. DEPOSIT & FEES**

1. Fees for responding to any request shall include duplication (copying) costs and mailing costs. Duplication (copying) costs shall be set from time to time by resolution of the Superintendent or designee in an amount that does not exceed 10 cents per page (8½ x 11 and 8½ x 14). The District shall use the most economical method of duplication (*i.e.*, doublesiding, etc.) and the least expensive form of postal delivery, unless a more expensive method is specifically requested by the FOIA requestor.
2. The cost of hourly labor may also be charged if the failure to do so will result in unreasonably high costs to the District because of the nature of the request in a particular

instance. If such is the case, the District shall specifically identify the nature of these unreasonably high costs. For

1. purposes of these procedures and guidelines, “unreasonably high costs” shall generally mean calculated labor costs that are estimated to exceed \$50.00, inclusive of salary or wage and fringe benefits.
2. Labor costs shall include the cost of the search, examination, review, separation, and/or deletion of exempt information from non-exempt information in order to fulfill a request.
3. Labor costs will be calculated using the wage of the lowest paid District employee capable of searching for, locating, and examining the public record(s), regardless of whether that person is available or actually performs the labor. Labor costs shall be charged in increments of at least 15 minutes or more with all partial time increments rounded down. The District may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits. If it does so, it will clearly note the percentage multiplier used to account for benefits in the detailed itemization form. Subject to the 50% limitation, the District shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. Notwithstanding the foregoing, 100% of fringe benefit costs may be added to the applicable labor charge if a requestor is notified in writing that public records are available on the District’ website or webpage and the requestor continues to request that the District provide a copy, in any format, of the available public record.
4. Overtime wages shall not be included in the calculation of labor costs unless the requestor specifically approves the use of overtime in writing, and overtime wages are clearly noted in the detailed itemization form.
5. If the District does not employ a person in-house who is capable of separating exempt from non-exempt information in a particular instance, as determined by the FOIA Coordinator, it may utilize an outside contractor. In those instances, the District shall clearly note the name of the contractor or firm on the detailed itemization form. The cost of the contractor’s labor, including necessary review directly associated with separating and deleting exempt information from non-exempt information, shall not exceed an amount equal to 6 times the state minimum hourly wage rate.
6. The District will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record in question and still has the redacted version in its possession.
7. The District may require a good faith deposit (not to exceed 50% of the total labor and duplication costs) from the requestor, if the total estimated fee exceeds fifty dollars (\$50.00). A request for a good faith deposit shall include a detailed itemization of the fee the District estimates or charges pursuant to the Act. Additionally, a request for a good faith deposit shall include a best efforts estimate regarding the time frame it will take to comply with the Act in providing the public records to the requestor. The District may

require a one-hundred percent (100%) deposit from a requestor who has not previously paid a fulfilled FOIA request, provided the requirements in Section 5 of the Act are met.

8. All fees and deposits calculated under these procedures and guidelines shall be listed within a detailed itemization form that shall be provided to the requestor. A copy of such form is attached hereto and incorporated by reference.
9. Pursuant to Section 4(2) of the Act, the District shall search for and furnish a copy of a public record without charge for the first \$20.00 of the fee for each request made by either of the following:
  - a. An individual who is entitled to information under the Act and who submits an affidavit stating that the individual is indigent and receiving specific public assistance or, if not receiving public assistance, stating facts showing an inability to pay the cost because of indigence. If an individual is ineligible for a discount, then the District will inform the individual of the specific reason for the ineligibility in its written response. The right to financial assistance for indigent individuals shall not apply where:
    - (i) an individual has received discounted copies of public records from District twice during the calendar year; or
    - (ii) an individual requests information in conjunction with outside parties who are offering or providing payment, or other remuneration to the individual to make the request.
  - b. A non-profit 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, or their successors provided the following requirements are satisfied:
    - (i) The request is made directly on behalf of the organization or its clients;
    - (ii) the request is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931; and
    - (iii) the request is accompanied by documentation of its designation by the State, if requested by District.
10. The District may waive any charges if the FOIA Coordinator determines the cost is de minimis. For purposes of these procedures and guidelines, “de minimis” shall mean a calculated fee that is estimated to be less than \$10.00, inclusive of labor costs, duplication and mailing.

## **V. FEE DISPUTE APPEAL**

1. If the requestor believes the fee estimated or charged for the request exceeds the amount permitted under these procedures and guidelines or Section 4 of the Act, the requestor is required to submit to the Superintendent or designee a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under these procedures and guidelines or Section 4 of the Act.
2. Within 10 business days after receiving a written appeal, the Superintendent or designee shall do one of the following:
  - a. Waive the fee.
  - b. Reduce the fee and issue a written determination to the requestor indicating the specific basis under Section 4 of the Act that supports the remaining fee. The determination shall include a certification from the Superintendent or designee that the statements in the determination are accurate and that the reduced fee complies with these procedures and guidelines and Section 4 of the Act.
  - c. Uphold the fee and issue a written determination to the requestor indicating the specific basis under Section 4 of the Act that supports the required fee. The determination shall include a certification from the Superintendent or designee that the statements in the determination are accurate and that the fee complies with these procedures and guidelines and Section 4 of the Act.
  - d. Issue a notice extending, for not more than 10 business days, the period during which the Superintendent or designee shall respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The
    - a. Superintendent or designee shall not issue more than one notice of extension for a particular written appeal.
2. If a requestor disagrees with the District' determination, the requestor may comment an action in Circuit Court in the County in which District is located, within 45 days of the public body's determination, to seek a fee reduction.

## **VI. RIGHT TO APPEAL A DENIAL OF A PUBLIC RECORD REQUEST**

1. If a requestor desires to appeal a denial of a request for a public record, in whole or in part, the requestor may submit a written appeal to the Superintendent or designee or may seek judicial review of the denial, pursuant to Section 10 of the Act (MCL 15.240). A written appeal to the Superintendent or designee shall specifically state the word "appeal" and identify the reason(s) for reversal of the denial.
2. Within 10 business days after receiving a written appeal, the Superintendent or designee shall do one of the following:

- a. Reverse the disclosure denial.
  - b. Issue a written notice to the appellant upholding the denial.
  - c. Reverse the denial in part and issue a written notice to the appellant upholding the denial in part.
  - d. Under unusual circumstances, issue a notice extending, for not more than 10 business days, the period during which the Superintendent or designees shall respond to the written appeal. The Superintendent or designee shall not issue more than 1 notice of extension for a particular written appeal.
3. The Superintendent or designee is not considered to have received a written appeal until its next regularly scheduled meeting after the appeal is submitted.
  4. Any failure to respond to an appeal shall be considered a decision to uphold the denial. If an appeal is denied in whole or in part by the Superintendent or designee, the appellant may seek judicial review of the nondisclosure by commencing an action in Circuit Court in the County in which District is located.

\*\* Pursuant to MCL 15.232 (2)(c) access to FOIA public records does not include an individual serving a sentence of imprisonment for a state or county correctional facility in this state or any other state, or in a federal correctional facility.

## Chelsea School District Bylaws & Policies

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### **8310 - PUBLIC RECORDS**

The Board recognizes its responsibility to maintain the public records of the District and to make such records available to residents of Michigan for inspection and reproduction as required by law.

Any person may make an oral or written request which describes the public record sufficiently to enable the public body to find the public record and may inspect, copy, or receive copies of the public record requested, as prescribed by law. Fees may be charged to defray the cost of making such records available. The Superintendent may establish administrative guidelines to ensure proper compliance with the intent of this policy, the Freedom of Information Act, and any other law related to the maintenance and inspection of public records.

No public record may be removed from the office in which it is maintained, except by an employee in the performance of his/her duties.

The Board chooses not to provide for enhanced access to any of its public records.

The Board has determined that personal and confidential information provided to and retained by the District on parents, students, staff and others will be considered exempt from disclosure pursuant to a Freedom of Information Act request, unless advised specifically by the District's legal counsel that the particular information must be released. Such personal and confidential information shall include home addresses, telephone numbers, e-mail addresses or website pages (e.g. My Space, Facebook), except as they are specifically related to the operation of the schools, or specifically authorized for release by the individual, or the parent/guardian if the individual is a minor.

The Superintendent is authorized to dispose of correspondence on a daily basis, including those transmitted by voice mail or E-mail, or other electronic means providing the message does not alter existing District records.

M.C.L.A. 15.231 et seq.

M.C.L.A. 445.81 et seq.

Michigan Federation of Teachers v. University of Michigan, 481 Mich. 657 (2008)

Revised 10/26/09

## Freedom of Information Act Detailed Itemization of Fees

Requestor's name and address:	
<b>Fee calculation</b>	<b>Amount</b>
1. Labor costs* to search, locate, and examine:  ___ Hours x \$_____ (hourly wage) x ___% (multiplier for fringe benefits, not to exceed 50% or actual cost of fringe benefits)	\$
2. Labor costs* for review and separation of exempt from non-exempt material:  ___ Hours x \$_____ (hourly wage) x ___% (multiplier for fringe benefits, not to exceed 50% or actual cost of fringe benefits)	\$
3. Nonpaper physical media: Describe (e.g. CD's, DVD's, flash drive, etc) and list actual costs.	\$
4. Duplication and publication: Describe (copying, scanning, etc)  \$___ (cost per page) x _____ number of pages	\$
5. Labor costs* to duplicate or publish:  ___ Hours x \$_____ (hourly wage) x ___% (multiplier for fringe benefits, not to exceed 50% or actual cost of fringe benefits)	\$
6. Mailing: Describe and list actual costs.	\$
Less waiver for indigent persons (\$20.00)**	
Less reduction for untimely response:  \$___ subtotal x 5% reduction per day x ___ days	\$
Make check payable to State of Michigan and mail to:	Total fee: \$
If the total fee is more than \$50.00, you will be asked to pay a deposit of one-half of the amount of the total fee. The total fee and deposit are estimates, and your final costs may vary from these amounts.	Deposit: \$
Part or all of the documents requested are available online at:	
If you prefer to have copies of these documents sent to you, please forward payment to the Department for processing.	\$
Balance to be paid:	\$

\*Labor costs will be calculated using the lowest paid Department employee capable of each task. If more than one hourly rate is used, they will be listed on other copies of this form.

\*\*You must submit an affidavit of indigency to qualify for this fee waiver.