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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 www.orchardview.org

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. These day-to-day inquiries to the District for information shall be handled appropriately by District staff under rules established by the District or building administration.

Definitions

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

**District:** Orchard View Schools

**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, photostatting, 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:** writing that asks for information and includes a writing transmitted by facsimile, electronic mail or other electronic means

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**FOIA Coordinator**

The Superintendent shall serve as the District’s FOIA Coordinator. He or she is authorized to designate other District staff to act on his/her behalf to accept and process written requests for the District’s public records and approve denials.

The FOIA Coordinator shall perform the following duties:

- Logs public records request received by the District.
- Determines whether requested records/information exists 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 indigence.
- 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. 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. 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 12.)

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 www.orchardview.org.

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% reduction. The reduction shall apply if the late response was willful and intentional and the written request included language that conveyed a request for information with the first 250 words of the body of the 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 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 denial appeals on pg. 9) or to seek judicial review of the denial in circuit court and receive attorney’s 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 email, the requestor must provide the proper email 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% 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 and 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.

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.

**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 work “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 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 the 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 the 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 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 60 minutes, with all atrial 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 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.

**Non-paper Physical Media** – A requestor may stipulate that records be produced on non-paper physical media (i.e. flash drive or CD). If the School District has the technological capabilities to comply with the request for production on non-paper physical media, the School District may charge the actual and most reasonably economical cost of the requested non-paper physical media and the cost shall be noted on the fee itemization form.

**Cost of paper copies** – The School District will charge the actual cost of duplication (not to exceed 10 cents per sheet) for 8½ X 11 or 8 ½ x 14 inch sheets of paper. The actual cost of duplication will be charged for non-standard size sheets of paper and may exceed 10 cents per sheet. The School District shall utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.

**Postal delivery charges** – 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** – The School District may add to the labor charges described above the actual cost of the public employee’s fringe benefits, up to 50% of the labor costs. Fringe benefits must be noted on the fee itemization form.
Overtime wages – No overtime will be charged unless requested by the requestor, approved by the School District, and included on the fee itemization form.

Fee Waivers – A search for a public record may be conducted, or copies of public records may be furnished, without charge or at a reduced charge if the School District determines, in its discretion, that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

Discounts - Under the following circumstances, a public record search shall be made by the School District and a copy of a non-exempt public record shall be furnished without charge for the first $20.00 of the fee:

a. If an individual who is entitled to information under the FOIA:
   - Submits an affidavit stating that the individual is receiving specific public assistance or is unable to pay the fee because of indigence and stating that the individual is not making the request in conjunction with outside parties in exchange for payment or other remuneration; and
   - That individual has not previously received discounted copies of public records from the School District twice during the same calendar year.

b. If a nonprofit corporation formally designated by the State of Michigan 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, submits a request that meets all of the following requirements:
   - Is made directly on behalf of the organization or its clients;
   - Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and
   - Is accompanied by documentation of its designation by the state, if requested by the School District.

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 is 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 reserve the right to require a deposit of 100% of the
estimated fee before it begins to process any subsequent public records requests from that individual.

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 time in the future.

Effective Date: July 1, 2015