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3500 FOIA Requests and Record Retention

3501-AG Michigan Freedom of Information Act Procedures and Guidelines

The Michigan Freedom of Information Act (FOIA) provides for public access to certain public records, permits the charging of prescribed fees and deposits, and provides remedies and penalties for non-compliance. A person has a right to inspect, copy, or receive copies of certain requested public records. Some public records are permitted or required not to be disclosed. The District is a public body that must comply with FOIA. The District has established the following Procedures and Guidelines to implement FOIA. For purposes of these Procedures and Guidelines, terms have the same meaning as defined in FOIA. A complete copy of FOIA is available on the Michigan Legislature's website at www.legislature.mi.gov.

These Procedures and Guidelines (which include a Public Summary and a Fee Itemization Form) are available on the District's website at: <https://muskegonpublicschools.org/>. This link or a physical copy of these Procedures and Guidelines will be included in each of the District's FOIA responses. Paper copies of these Procedures and Guidelines are available upon request by a visitor at the District's Central Administration Offices, located at 1458 5TH ST. Muskegon, MI 49441.

A. Written Public Summary

1. How to Submit Written Requests

A written request to inspect, copy, or review a public record should be submitted to the District's FOIA Coordinator.

FOIA requests can be sent via U.S. Mail to: 1458 Fifth Street, Muskegon MI 49441

FOIA requests sent via email should be sent to: FOIA@mpsk12.net

FOIA requests sent via fax should be faxed to: 231-720-2050

A request must describe the public record in sufficient detail to enable the District to find the requested record. A sample Request Form is appended to these Procedures and Guidelines as Attachment A.

A request must include the requester's (1) complete name (first and last name), (2) mailing address, and (3) either phone number or email address. A request made by an organization must include the contact information of its agent or representative. Any mailing address provided must be in a format that complies with United States Postal Service addressing standards. This information is not required for a request by an individual who qualifies as indigent under FOIA (i.e., by submitting an affidavit that describes the individual's indigence).

A person may subscribe to future issuances of public records created, issued, or disseminated by the District *on a regular basis*, such as notices of board meetings. A subscription is valid for up to 6 months and may be renewed by the subscriber.

In lieu of paper copies, the requester may stipulate that the District provide non-exempt public records on non-paper physical media, electronically mailed, or otherwise electronically provided. The District is not required to produce non-exempt public records on non-paper physical media if the District lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The District is not required to use non-paper physical media provided *by the requester* and, to safeguard the District's information technology infrastructure, will not do so.

A person may request a certified copy of a public record.

2. Explanation of Written Responses

The District will respond to a written request under FOIA within 5 business days (excluding weekends and legal holidays) after the District receives the written request, unless otherwise agreed to in writing by the requester. FOIA defines the date of receipt by the District differently depending upon how the request was delivered to the District (e.g., hand-delivery, U.S. Mail, email, facsimile).

The District will respond to a request by doing one of the following: (a) granting the request; (b) issuing a written notice denying the request; (c) granting the request in part and issuing a written notice denying the request in part; or (d) issuing a notice extending for not more than 10 business days the period during which the District will respond to the request. The District will not issue more than 1 notice of extension for a particular request.

If a requester asks for information that is available on the District's website, the District will notify the requester in its response where to find the records on its website. Paper copies of public records available on the District's website will be made available upon request, but a fee may be charged as explained in Section B.4 and on the detailed Fee Itemization Form.

The District will provide reasonable facilities for a requester to inspect non-exempt public records. The facilities will be available during the District's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which a requester may inspect records to protect the District's records from loss, alteration, mutilation, or destruction or to prevent undue interference with the District's normal operations.

If a request is denied in whole or in part, the District will include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the District. A sample

Certificate of Non-Existence of Public Record is appended as Attachment B. If a public record or information is separated and exempt from disclosure (redacted), the District will describe generally the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

3. Deposit Requirements

Where the District estimates that the fee authorized under the FOIA and these Procedures and Guidelines for responding to a request will exceed \$50, the District may require a good-faith deposit from the requester before processing the request. A good-faith deposit will not exceed half of the total estimated fee and will include a detailed itemization of estimated fee amounts. The FOIA Coordinator will provide the requester with a detailed itemization of the allowable fees estimated to be incurred by the District to process the request as well as notice of the date by which the deposit must be received, which is 48 days after the notice is sent by any means of transmission. The District will include with its request for a good-faith deposit a best efforts estimate of the time frame within which the District will provide the requested public records. The time frame estimate is not binding on the District but will be made in good faith, and the District will strive to be reasonably accurate.

If a requester previously requested public records from the District and if the District made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the District may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

If a requester fails to pay the good-faith deposit within 48 days after the date of the deposit notice and if the requester has not appealed the deposit amount, the request will be considered abandoned and the District will no longer be required to fulfill the request.

4. Fee Calculations

The FOIA permits the District to charge 6 fee components: (a) labor costs of searching for, locating, and examining public records; (b) labor costs of separating or deleting (redacting) exempt information from non-exempt information; (c) labor costs to duplicate or publish requested public records; (d) actual costs of paper copies (not to exceed 10 cents per sheet for standard 8-1/2 by 11-inch sheets of paper or 8-1/2 by 14-inch sheets of paper); (e) actual costs of non-paper physical media (e.g., flash drive, CD), if requested and if the District has the technological capability to comply; and (f) actual costs of postal delivery. For more detailed information about the District's fee calculations, including fee reductions for untimely responses, see Section B.4. of these Procedures and Guidelines and Attachment C, Fee Itemization Form. The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.

- a. 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 District determines 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.
- b. Discounts. Under the following circumstances, a public record search will be made by the District and a copy of a non-exempt public record will be furnished without charge for the first \$20 of the fee:
 - i. 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 District twice during the same calendar year.
 - ii. 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 District.

5. Avenues for Challenge and Appeal

- a. Challenge to Record Denial. If the District fails to respond to a FOIA request or makes a final determination to deny all or a portion of a request, the requester may submit an appeal to the Board or may commence an action in the circuit court for the county in which the public record or the District's office is located. See Section B.5.a. of these Procedures and Guidelines for a more detailed explanation of the procedures and timelines for appealing a record denial.

- b. Challenge to Fee. If the District requires a fee that the requester believes exceeds the amount permitted under FOIA or the District's publicly available procedures and guidelines, the requester may commence an action in the circuit court for the county in which the public record or the District's office is located. See Section B.5.b. of these Procedures and Guidelines for a more detailed explanation of the procedures and timelines for a fee appeal.

B. Procedures and Guidelines

1. Requests

- a. All "persons," except those persons incarcerated in state or local correctional facilities, are entitled to submit a FOIA request to the District. A "person" is defined for purposes of the FOIA to mean "an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity." A request made by a "person," other than an individual (e.g., a corporation, firm, governmental entity) must include the requester's complete name (first and last name), mailing address, and either the phone number or email address of the "person's" agent who is an individual. Any mailing address provided must comply with United States Postal Service addressing standards.
- b. A FOIA request is a written request to inspect, copy, or receive copies of a public record. A request must describe the public record in sufficient detail to enable the District to find the requested record. The District suggests that requesters use the sample Request Form appended as Attachment A.
- c. FOIA requests must be in writing. If, however, a person makes an oral request for information that is available on the District's website and if the employee to whom the request is directed knows that the information is available on the District's website, that employee must inform the requester that the information is available on the District's website.
- d. The District's FOIA Coordinator is responsible to process requests to inspect, copy, or receive copies of public records. FOIA requests should be sent to the District's FOIA Coordinator.
 - i. FOIA requests can be sent via U.S. Mail to: 1458 5th St. Muskegon, MI 49441
 - ii. FOIA requests sent via email should be sent to: foia@mpsk12.net
 - iii. FOIA requests sent via fax should be faxed to: 231-720-2050

If an employee of the District receives a written request to inspect, copy, or receive copies of a public record, the employee should promptly forward the request to the District's FOIA Coordinator. A requester is not required to use the District's sample Request Form or to include the word "FOIA" in the

request. Therefore, all written requests to inspect, copy, or receive copies of records should be promptly forwarded to the FOIA Coordinator for review.

- e. The FOIA Coordinator will keep a copy of all written requests for public records received by the District on file for a period of at least 1 year.
 - f. A person may subscribe to future issuances of public records created, issued, or disseminated on a regular basis, such as notices or agendas of board meetings. In all other respects, if the requested public record does not exist as of the date requested, the District has no obligation under the FOIA to create the requested record or to provide a copy if created on a later date. A subscription is valid for up to 6 months and may be renewed by the subscriber.
 - g. The FOIA Coordinator will, upon written request, furnish a certified copy of a public record to the requester.
2. Responses

- a. Unless otherwise agreed to in writing by the person making the request, the District must respond to a written request under FOIA within 5 business days (excluding weekends and legal holidays) after the District receives the request by doing one of the following:
 - i. granting the request;
 - ii. sending written notice denying the request;
 - iii. granting the request in part and issuing a written notice denying the request in part; or
 - iv. issuing a notice extending for not more than 10 business days the period during which the District will respond to the request. The District will not issue more than 1 notice of extension for a particular request.
- b. If a request is denied in whole or in part, the District must include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the District. A sample Certificate of Non-Existence of Public Record is appended as Attachment B.
 - i. Exemptions to disclosure are set forth in Section 13 of the FOIA, MCL 15.243, which is available on the Michigan Legislature's website at www.legislature.mi.gov.
 - ii. If a public record or information is separated and exempt from disclosure (redacted), the District will describe generally the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

- c. The date for responding to a FOIA request depends upon the manner in which the request was delivered. A request sent by mail or delivered by hand is received for purposes of FOIA on the day it arrives at the District. A request sent by email, fax, or other electronic means is received for purposes of FOIA 1 business day after the date on which it was electronically transmitted. If a request is sent by email and is diverted to the District spam or junk mail folder, the request is not received until 1 day after the date it is discovered in the spam or junk mail folder. The FOIA Coordinator will include in the District's records both the time that a written request was delivered to its spam or junk-mail folder and the time that the District first became aware of that request. The District will review the FOIA Coordinator's spam or junk mail folder at least once every 30 days.
- d. If a request is fully granted, the District will provide copies of, or an opportunity to inspect, all the public records that were requested upon payment of the appropriate fee (if any). No pages will be left out, and nothing will be redacted.
- e. The District will provide reasonable facilities for a requester to inspect non-exempt public records. The facilities will be available during the District's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which records may be inspected to protect the District's records from loss, alteration, mutilation, or destruction or to prevent undue interference with the District's normal operations.
- f. The FOIA identifies numerous specific exemptions to disclosure. If a request includes information that is exempt from disclosure, the District will provide a written response and list the reason(s) why the record(s) or portions of records will not be disclosed. The District will include a link to, or a copy of, these Procedures and Guidelines (including the Public Summary and Attachments) with each denial.
- g. If a request is partially denied, it means that some records or parts of records will be disclosed, and that some records or parts of records will not be disclosed. The District will provide copies of, or an opportunity to inspect, the non-exempt records, but exempt information (which may consist of entire documents, pages, or information on a page) may be withheld or redacted. The District will include in the written notice of denial-in-part an explanation of the basis for the denial-in-part and, if applicable, a certificate that one or more of the public records does not exist under the name given by the requester or by another name reasonably known to the District. The District will include a link to, or a copy of, these Procedures and Guidelines (including the Public Summary and Attachments) with each denial.
- h. Failure of the District to respond to a FOIA request within the prescribed timelines constitutes denial of the request. The fee the District is permitted to charge will be reduced by 5% per day, up to a 50% reduction, if the failure to timely respond was willful or intentional or if the request included

language described in FOIA as readily conveying a FOIA request. (See Section B.4., Fees).

- i. The FOIA does not require the District to create any records or to make compilations, summaries, or reports of existing records. If a request seeks records that do not exist, the District will certify that no records responsive to the request exist under the name or description provided in the request or another name known to the District. (See sample Certificate of Non-Existence of Public Record appended as Attachment B).
- j. If a request asks for information that is available on the District's website, the District will notify the requester in its response where the records may be found. If a requester seeks paper copies of information available on the website, the District may charge the fees noted below and on the Fee Itemization Form, except that there will be no charge for separating exempt from non-exempt material.
- k. In lieu of paper copies, the requester may stipulate that the District provide non-exempt public records on non-paper physical media, by electronic mail, or other electronic means. The District is not required to produce non-exempt public records on non-paper physical media if the District lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The District is not required to use non-paper physical media provided by the requester and, to safeguard the District's information technology infrastructure, will not do so.

3. Deposit Requirements

- a. Where the District estimates that the fee authorized under the FOIA and these Procedures and Guidelines for responding to a request will exceed \$50, the District may require a good-faith deposit from the requester before processing the request. A good-faith deposit will not exceed half of the total estimated fee and will include a detailed itemization of estimated fee amounts. The FOIA Coordinator will provide the requester with a detailed itemization of allowable fees estimated to be incurred by the District to process the request as well as notice of the date by which the deposit must be received, which is 48 days after the notice is sent by any means of transmission. The District will include with its request for a good-faith deposit a best efforts estimate of the time frame within which the District will provide the requested public records. The timeframe estimate is not binding on the District, but the estimate will be made in good faith and the District will strive to be reasonably accurate.
- b. If a requester fails to pay the good-faith deposit within 48 days of the date of notice and if the requester has not filed an appeal of the deposit amount, the request will be considered abandoned by the requester and the District is no longer required to fulfill the request.

- c. If a requester previously requested public records from the District and if the District made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the District may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

4. Fees

- a. A fee will not be charged for the cost to search, examine, review, and delete/separate/redact exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the District. In determining whether such costs are “unreasonably high,” the District will consider, on a case-by-case basis, the estimated costs given the volume and complexity of the request relative to the usual or typical costs incurred by the District in responding to FOIA requests.
- b. Fees are calculated using the Fee Itemization Form appended to these Guidelines and Procedures as Attachment C. The District charges the following fees:
 - i. Labor costs incurred for searching for, locating, and examining public records. Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of searching for, locating, and examining the public records. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form. The hourly rate of the lowest-paid employee capable of searching for, locating, and examining particular records may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to search for, locate, or examine the requested record. All charges will be noted on the Fee Itemization Form.
 - ii. Labor costs for separating and deleting exempt information from non-exempt information. Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of separating and deleting material that is exempt from disclosure from information that is non-exempt from disclosure. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form. The hourly rate of the lowest-paid employee capable of separating and deleting exempt information from non-exempt information may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to separate and redact exempt information from non-exempt information. If the District FOIA Coordinator determines on a case-by-case basis that no employee of the District is capable of separating and deleting exempt from non-exempt material, the District may engage a contracted services provider and charge labor costs. Such labor costs will be calculated in 15-minute

increments (rounded down), and the hourly rate will not exceed 6 times the state minimum wage. All charges will be noted on the Fee Itemization Form.

- iii. Costs for non-paper physical media. A requester may stipulate that records be produced on non-paper physical media (e.g., a flash drive or CD). If the District has the technological capability to comply with the request for production on non-paper physical media, the District may charge the actual and most reasonably economical cost of the requested non-paper physical media, and the cost of non-paper physical media will be included on the Fee Itemization Form.
 - iv. Actual cost of duplication for paper records. The District will charge the actual cost of duplication (not to exceed 10 cents per sheet) for 8-1/2 by 11-inch sheets of paper or 8-1/2 by 14-inch sheets of paper. The actual cost of duplication will be charged for non-standard-sized sheets of paper and may exceed 10 cents per sheet. The District will utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.
 - v. Actual labor costs for duplication or publication. The District's charges for duplication or publication will not exceed the hourly rate of the lowest-paid employee capable of duplicating or publishing the records. The hourly rate of the lowest-paid employee capable of duplicating or publishing records may vary depending on the nature of the records sought. Duplication or publication fees are calculated in 15-minute increments (rounded down). All charges will be noted on the Fee Itemization Form.
 - vi. Postal delivery charges. The District may charge the costs of the least expensive form of postal delivery. If a requester asks for expedited mailing and if the District agrees to provide expedited mailing, the actual cost of the expedited mailing may be charged and must be included on the Fee Itemization Form.
 - vii. Fringe benefits. The 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.
 - viii. Overtime wages. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form.
- c. Each of the fee components described above must be specifically listed on the Fee Itemization Form. A completed copy of the Fee Itemization Form will be included with the response to the request. A copy of the Fee

Itemization Form is appended to these Procedures and Guidelines as Attachment C.

- d. Fee reductions. If the FOIA Coordinator does not respond to a written request within the time frames required by FOIA, the District will reduce the charges for labor costs otherwise permitted under FOIA and these Procedure and Guidelines by 5% for each day the District exceeds the time permitted for a response to the request, up to a maximum 50% reduction, if either of the following applies:
 - i. The late response was willful and intentional.
 - ii. The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, 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 the FOIA, on the front of an envelope or in the subject line of an electronic mail, letter, or facsimile cover page.

If a fee reduction is required, the District will fully note the fee reduction on the detailed Fee Itemization Form (Attachment C).

- e. Payment. The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.
- f. 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 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.
- g. Discounts. Under the following circumstances, a public record search will be made by the District and a copy of a non-exempt public record will be furnished without charge for the first \$20 of the fee:
 - i. 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 District twice during the same calendar year.

- ii. 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 Mental Health Code Section 431, 1974 PA 258, MCL 330.1931; and
 - is accompanied by documentation of its designation by the state, if requested by the District.

5. Appeals

A requester may appeal any denial of records or any fee charged for public records.

a. Challenge to Record Denial.

- i. If the District denies a request for records, the requester may either:
 - A) appeal to the District's Board; or
 - B) commence an action in the circuit court in Muskegon County within 180 days of the denial.
- ii. If the requester appeals to the Board, the appeal must specifically state the word "appeal" and state the reason(s) that the denial should be reversed. The following rules apply to record denial appeals to the governing board:
 - A) An appeal is not "received" until the first regularly scheduled board meeting after the appeal is submitted.
 - B) Within 10 business days after receiving the appeal, the Board will do one of the following:
 - reverse the denial;
 - issue written notice upholding the denial;
 - reverse the denial in part and issue written notice upholding the denial, in part; or
 - issue written notice extending the time for response by not more than 10 business days.

- a. Sample FOIA Request Form
- b. Sample Certificate of Non-Existence of Public Record
- c. Standard Form for Detailed Itemization of Fee Amounts

Adoption date: 8/13/2024

Revised Date:

Attachment A
Sample FOIA Request Form

[Date]

FOIA Coordinator
1458 5th Street

Muskegon, MI 49445

Re: Freedom of Information Act Request

Dear FOIA Coordinator:

Pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., I am writing [to inspect / to copy / to obtain copies of] the following public records:

[Insert description of records sought]

Optional: Please provide a copy of the requested public records on [Insert description of desired non-paper physical medium, such as CD or flash drive].

Optional: Please waive or reduce the fee to search for or furnish copies of the requested public records on grounds 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.

Optional: Please furnish the requested records without charge for the first \$20 of the fee because (A) I am receiving public assistance [Insert specific description] or I am unable to pay the fee because of indigence; (B) I am not making this request in conjunction with outside parties in exchange for payment or other remuneration; and (C) I have not previously received discounted copies of public records from the [Public Body] twice during this same calendar year.

Optional: Please furnish the requested records without charge for the first \$20 of the fee because (A) this request is made directly on behalf of 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, or on behalf of its clients; (B) this request is made for a reason wholly consistent with the mission and provisions of those laws under Mental Health Code Section 931, MCL 330.1931; and (C) this request is accompanied by documentation of designation by the State of Michigan.

Optional: I am writing to request, pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., to subscribe for up to six months to the following future issuances of public records created, issued, or disseminated by [Public Body] on a regular basis: [Insert specific description].

Please contact me if you have any questions.

Sincerely,

[Requester Name]

[Requester Address]

[Requester Email]

[Requester Phone Number]

Attachment B
Certificate of Non-Existence of Public Record

To be sent on District letterhead.

[Date]

[Requester's Name]

[Requester's Address]

Re: Freedom of Information Act Request Dated [], 20[]

Dear [Mr./Ms.]:

[Insert District Name] is in receipt of your letter dated [], 20[], regarding a request under the Michigan Freedom of Information Act ("FOIA"). Your letter was received on [Insert statutory receipt date]. You requested [Insert description of records sought].

I hereby certify, pursuant to Section 5(5)(b) of FOIA, that your FOIA request is denied because, to the best of my knowledge, information, and belief, no public records exist as of [Insert statutory receipt date], under the name(s) set forth in your request as detailed below, nor under another name reasonably known to the District. MCL 15.235(5)(b).

**Right to Appeal Disclosure Denial
and Recover Attorneys' Fees and Costs**

If a public body makes a final determination to deny all or a portion of a FOIA request, the requester may do one of the following at his or her option:

- (1) Submit to the "head of the public body" (the Governing Board) a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or
- (2) Commence an action in the circuit court to compel the public body's disclosure of the public records.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under section 10 of the FOIA, the court will award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award will be assessed against the public body liable for damages that kept or maintained the public record as part of its public function.

If the circuit court determines in an action commenced under section 10 of the FOIA that the District arbitrarily and capriciously violated the FOIA by refusal or delay in disclosing or providing copies of a public record, or that

the District willfully and intentionally failed to comply with FOIA or otherwise acted in bad faith, the court will award, in addition to any actual or compensatory damages, punitive damages as prescribed in FOIA to the person seeking the right to inspect or receive a copy of a public record. The damages will not be assessed against an individual but will be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

A full explanation of your right to seek either appeal or judicial review is set forth in Section 10 of the FOIA, MCL 15.240.

A copy of the District's FOIA Procedures and Guidelines is available on the District's website at

<https://muskegonpublicschools.org/about-us/publications-and-notice/freedom-of-information-act/>.

Very truly yours,

Matthew T. Cortez
FOIA Coordinator
Muskegon Public Schools

Attachment C
Standard Form for Detailed Itemization of Fee Amounts

Muskegon Public Schools
FOIA Fee Itemization Form

Requester's Name: _____ Date Request: _____ on _____

Hand-Delivered U.S. Mail Email Fax

Date Received¹: _____ Estimated Fee: _____ - Actual or-Fee: _____

If estimated fee is over \$50, the District shall charge a good faith deposit of 50% of the estimated fee. Failure to pay the deposit within 48 calendar days of the District's notice constitutes abandonment, and the District is no longer required to fulfill the request.

Request diverted to spam/junk Mail²? Yes No If yes, please fill in delivery/discovery times:

Date/time delivered _____ Date/time discovered _____

Record available on website but copy nonetheless requested Yes No

Estimated date FOIA response will be available: _____

Labor Costs³

Not charged unless failure to charge would result in unnecessarily high costs to the District.

Searching/Locating/Examining Records

_____ x 1. _____ = _____ / 4 = _____ x _____ = _____

¹ A FOIA request is received on the date that it is hand-delivered, or that U.S. Mail is delivered, to the District. A FOIA request is treated as received on the next business day if sent via fax, email, or other electronic transmission; provided, however, the special rules apply to an email re-directed to a SPAM or trash account. (See n. 2)

² If a written request is sent by electronic mail and delivered to the public body's spam or junk-mail folder, the request is not received until 1 day after the public body first becomes aware of the written request. The public body shall note in its records both the time a written request is delivered to its spam or junk-mail folder and the time the public body first becomes aware of that request.

³ A fee shall not be charged to search, locate, examine, review, or delete/separate/redact exempt from non-exempt information unless failure to charge would result in unnecessarily high costs to the District.

Hourly wage⁴ x Fringe Benefit⁵ % = Hourly cost / 4 = 15 minute cost⁶ x # of Increments
Total

_____/ 4 = _____ x _____ = _____
 Overtime wage (if any)⁷ / 4 = 15 minute cost x # of Increments **Total**

Separating and Deleting Exempt from Non-Exempt Information/Records

Employee

 1. _____ x _____ = _____ / 4 = _____ x _____ = _____
 Hourly wage⁸ x Fringe Benefit % = Hourly cost / 4 = 15 minute cost x # of Increments
Total

_____/ 4 = _____ x _____ = _____
 Overtime wage (if any) / 4 = 15 minute cost x # of Increments **Total**

Contracted Labor (if any)

Name of person or firm engaged under contract _____

_____/ 4 = _____ x _____ = _____
 Hourly wage / 4 = 15 minute cost x # of increments **Total**

Duplicating or Publishing Records⁹

 1. _____ x _____ = _____ / 4 = _____ x _____ = _____
 Hourly wage x Fringe Benefit % = Hourly cost / 4 = 15 minute cost x # of Increments =
Total

⁴ The hourly rate shall not be more than the hourly wage of the lowest-paid staff member capable of performing the labor in the particular instance.

⁵ The District will add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits. 100% of fringe benefit costs will be added to the applicable labor charge if a requester stipulates that records available on the District website nonetheless are requested to be provided in a paper format or in a specific form of electronic media. Under no circumstances shall the District charge more than the actual cost of fringe benefits.

⁶ In general, labor costs shall be estimated and charged in increments of 15 minutes, with all partial time increments rounded down. (See n. 9 for exception.) Divide the resulting hourly wage(s) by 4 to determine the charge per 15-minute increment.

⁷ Overtime rates shall not be included in the calculation of labor costs unless overtime is specifically requested by the requester and agreed upon by the District.

⁸ If more than one employee is completing any task, use additional cost itemization forms to separately note each employee's hourly wage, fringe benefits, and time.

⁹ Labor costs for duplicating or publishing records may be estimated and charged in time increments of the District's choosing, with all partial time increments rounded down. The District has determined to charge labor costs for duplicating or publishing records in 15-minute increments.

_____ / 4 = _____ x _____ =
Overtime wage (if any) / 4 = 15 minute cost x # of Increments

**Subtotal
Costs**

Labor

Total

--

Copying Costs for Paper Copies¹⁰

Letter (8 1/2" x 11")¹¹ Cost per page \$0. _____ x # of sheets _____ = Total _____

Legal (8 1/2" x 14") Cost per page \$0. _____ x # of sheets _____ = Total _____

Size (_____) Cost per page \$0. _____ x # of sheets _____ = Total _____

Size (_____) Cost per page \$0. _____ x # of sheets _____ = Total _____

Subtotal Costs **Paper** _____

Postal Delivery Charges

Overnight or Special Request Yes No \$ _____

Cost of Packaging \$ _____

Postage Cost \$ _____

Cost of Delivery Confirmation \$ _____

Special Shipping Cost \$ _____

Insurance Cost \$ _____

Subtotal Costs **Postage** _____

Non-Paper Physical Media

USB Flash Drives \$ _____ each drives x # of _____ = Total _____

Computer Discs \$ _____ each discs x # of _____ = Total _____

¹⁰ The District shall utilize the most economical means available for making copies, including using double-sided printing.

¹¹ The fee shall not exceed 10 cents per sheet of paper (one-sided or two-sided) for copies made on 8 1/2 x 11-inch sheets of paper or 8 1/2 x 14-inch sheets of paper.

Other Media Digital _____ each x # = _____
_____ \$ _____ of _____ Total _____

Other or Special Request Yes
 No

Subtotal Costs

Non-Paper

\$ _____

Total Costs _____

Discounts

Qualified for Discount Yes No If yes, subtract \$20. (\$ _____)

- Indigence (maximum of 2 discounts per calendar year)
- State Designated Non-Profit (e.g., MPAS) (unlimited number of discounts)

Qualified for Waiver or Reduction as primary and benefiting the general public?

Yes No If yes, insert amount of waiver or reduction (\$ _____)

Reduction for untimely response by District? Yes No If yes:

of days
late _____ x 5 = _____ % reduction of Labor Costs (Maximum 50%)

Subtotal Labor _____ % = Total Labor Cost Reduction
Costs _____ x _____ \$ (_____)

Good faith deposit requested? Yes No

If yes, Deposit Date deposit
Amount \$ _____ requested:
Date deposit Amount of Deposit
received: _____ (\$ _____)

Total Discounts (\$ _____)

Totals

Total Costs \$ _____
Total Discounts (\$ _____)
Total Due \$ _____

Date Delivered: _____ Date Paid: _____

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4104-AG Employment Complaint Procedure

Consistent with Policies 4101, 4102, 4103, and 4104, the Employment Compliance Officer, Superintendent, or Board President or designee must initiate or have initiated an investigation into formal or informal complaints alleging unlawful discrimination, including unlawful sexual harassment, or retaliation. These Administrative Guidelines outline general procedures for an investigation. Title IX investigations should be performed in compliance with Policy 3118.

A. Confidentiality

The investigator may be required to share the complaint with others, including the accused and witnesses, to obtain relevant information to conduct a prompt investigation. The complaint and other investigatory materials may be subject to disclosure in legal proceedings or under state or federal law, regulations, or rules. If the District retains a licensed investigator or an attorney to conduct the investigation, the investigator's notes and report and/or the attorney's work product and attorney-client communications are privileged to the maximum extent permitted by state or federal law unless expressly waived by the Board. Confidentiality cannot be guaranteed.

B. Searches

Searches of public property and private belongings must be conducted consistent with the U.S. and Michigan Constitutions, laws, regulations, rules, Policies, and relevant contracts.

C. Unionized Employees

The investigator will consult collective bargaining agreements when investigating bargaining unit employees. See Policy 4108. An employee who is a witness need not be provided union representation unless required by the applicable collective bargaining agreement.

D. Reports to Law Enforcement or Children's Protective Services

The investigator will consider whether a report must be made under Policy 4202 and state law. Physical assault of a child must be reported to law enforcement and/or Children's Protective Services immediately.

E. Retaliation

The investigator will notify the Complainant(s), Respondent(s), and witnesses that Policy 4101 prohibits unlawful retaliation.

F. False Statements

Individuals who make false statements or deliberate misrepresentations will be subject to discipline up to and including discharge.

G. Interviews

The investigator will interview each witness separately to the extent possible. The investigator is authorized to request a written statement from a witness. The investigator will notify a student's parent/guardian if a student is interviewed. A Respondent will be provided an opportunity to respond to the allegations against him/her and present relevant evidence.

H. Investigation Report

If the investigator determines that an investigation report is necessary, the report may contain the following:

1. Description of the complaint or how the District received the information being investigated.
2. List of witnesses interviewed or who provided written statements.
3. Summary of witness statements, including assessment of witness credibility, if applicable.
4. Summary of all evidence considered.
5. Applicable Policy standards.
6. Factual findings.
7. Application of factual findings to legal analysis, as necessary.
8. Determination whether a Policy violation occurred.

I. Investigation Outcome

The investigator, the appropriate District administrator, or the Board President will notify the Complainant(s) and Respondent(s) in writing of the investigation's outcome. The outcome letter will include the parties' appeal rights.

J. Recordkeeping Protocol

1. A copy of all notes, witness statements, photographs, other evidence, and the investigation report must be retained by the Employment Compliance Officer for the duration of the employee's employment or Board member's term plus six years, regardless of whether those records are kept in another location.

2. A copy of an investigation report substantiating an employee's unprofessional conduct must be retained in the employee's personnel file for the duration of the employee's employment plus 50 years.
3. The above-described records may be retained electronically.

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Series 4000: District Employment

4100 Employee Rights and Responsibilities

4105-AG Workplace Accommodations for Employees and Applicants with Disabilities

The following guidelines apply to an employee or applicant with a disability or a record of a disability within the meaning of state or federal law:

- A. If an employee or applicant submits a disability accommodation request, an appropriate District administrator will initiate the interactive process and complete appropriate provisions in Form 4105-F during the interactive process.
- B. Form 4105-F and medical information will be kept confidential and securely stored in the employee's confidential medical records file or similar confidential file for an applicant.

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Series 4000: District Employment

4100 Employee Rights and Responsibilities

4106-AG Family and Medical Leave Act (FMLA) The Forms listed in section A below may be updated from time to time by the U.S. Department of Labor and, therefore, should be obtained from the Department of Labor's website when needed. The definitions in section B below are from the FMLA and its regulations. The District cannot adopt definitions that are more restrictive or less favorable to employees. A collective bargaining agreement or individual employment contract that is more beneficial to the employee(s) will supersede this Administrative Guideline.

A. FMLA Forms

The District will provide the following forms to the employee requesting FMLA leave, and the employee or District will complete the forms, as applicable:

1. WH-381: Notice of Eligibility and Rights & Responsibilities, absent extenuating circumstances, should be completed by the District and provided within 5 work days after the employee requests leave or when the District has reasonable information that the employee may qualify for leave.
2. WH-380-E: Certification of Health Care Provider for Employee's Serious Health Condition, along with a copy of the job description for the employee's position, should be provided at the time of the employee's leave request.
3. WH-380-F: Certification of Health Care Provider for Family Member's Serious Health Condition should be provided at the time of the employee's leave request.
4. WH-384: Certification of Qualifying Exigency for Military Family Leave should be provided at the time of the employee's leave request.
5. WH-385: Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave should be provided at the time of the employee's leave request.
6. WH-385-V: Certification for Serious Injury or Illness of Covered Servicemember should be provided at the time of the employee's leave request.
7. WH-382: Designation Notice, absent extenuating circumstances, should be completed by the District and provided to the employee within 5 work days after the employee provided sufficient information or certifications that the employee qualifies for leave.

B. FMLA Definitions

1. "Serious Health Condition"

- a. A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves: (1) inpatient care or (2) continuing treatment by a health care provider.
- b. "Inpatient care" means an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., the inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment by a health care provider, or recovery therefrom), or any subsequent treatment in connection with such inpatient care.
- c. "Continuing treatment by a health care provider" includes any of the following:
 - i. *Incapacity and treatment.* A period of incapacity (i.e., the inability to work, attend school, or perform other regular activities due to the serious health condition, treatment by a health care provider, or recovery therefrom) of more than 3 consecutive, full calendar days, and any subsequent treatment period of incapacity relating to the same condition that also involves:
 - A) Treatment 2 or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider. Treatment by a health care provider means an in-person visit, and the first (or only) in-person treatment must take place within 7 days of the first day of incapacity; or
 - B) Treatment by a health care provider on at least 1 occasion which results in a regimen of continuing treatment under the supervision of the health care provider. Treatment by a health care provider means an in-person visit, and the first (or only) in-person treatment must take place within 7 days of the first day of incapacity.
 - ii. *Pregnancy or prenatal care.* Any period of incapacity due to pregnancy or for prenatal care. Absences qualify even if the employee or covered family member does not receive treatment from a health care provider during the absence.
 - iii. *Chronic conditions.* Any period of incapacity or treatment for such incapacity due to a chronic serious health condition which: (1) requires periodic visits (i.e., at least twice per year) for treatment by a health care provider or by a nurse under direct supervision of a health care provider;

(2) continues over an extended period of time (including recurring episodes of a single underlying condition); and (3) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences qualify even if the employee or covered family member does not receive treatment from a health care provider during the absence.

- iv. *Permanent or long-term conditions.* A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need receive active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- v. *Conditions requiring multiple treatments.* Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider for: (1) restorative surgery after an accident or other injury; or (2) a condition that would likely result in a period of incapacity of more than 3 consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (e.g., chemotherapy, radiation, etc.), severe arthritis (e.g., physical therapy), or kidney disease (e.g., dialysis).

2. "Health Care Provider" means:

- a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or
- b. Any other person determined by the Secretary of Labor to be capable of providing health care services, which includes only:
 - i. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state and performing within the scope of their practice as defined under state law;
 - ii. Nurse practitioners, nurse-midwives, clinical social workers, and physician assistants who are authorized to practice under state law and who are performing within the scope of their practice under state law;
 - iii. Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts;
 - iv. Any health care provider from whom the District or the District's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and

- v. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law.
3. "Spouse" means a husband or wife. It includes any other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state.
4. "Parent" means a biological, adoptive, step, or foster father or mother, or any other individual who stood *in loco parentis* to the employee when the employee was a son or daughter (as defined below). This definition does not include parents "in law."
5. "Son or daughter" for purposes of leave taken for birth or adoption or to care for a family member with a serious health condition means a biological, adopted, step, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18 or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

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Series 4000: District Employment

4100 Employee Rights and Responsibilities

4110-AG Reimbursement

- A. An employee seeking reimbursement for work-related expenses must complete the applicable fields in Form F-4110 and submit it to accountspayable@mpsk12.net.
- B. Reimbursements to bargaining unit employees must comply with applicable collective bargaining agreements unless the expenses are otherwise agreed to by the union.
- C. An employee may be disciplined, up to and including discharge, for submitting false, inaccurate, unauthorized, or improper expenses for reimbursement.

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Series 4000: District Employment

4200 Employee Conduct and Ethics

4202-AG Children's Protective Services (CPS) Reporting and Student Safety and Welfare

Pursuant to Policy 4202, employees who have reasonable cause to suspect child abuse or neglect are required to report that suspected child abuse or neglect. The following procedures govern this reporting obligation:

- A. Immediately report the suspected child abuse or neglect to CPS by telephone at (855) 444-3911 or through the CPS online reporting system. Employees are not to conduct an investigation before making a report.
- B. If the person making the report to CPS of suspected child abuse or neglect is not the Superintendent or building principal, immediately notify the Superintendent or designee and the building principal of the report.
- C. If the suspected child abuse or neglect was reported to CPS by telephone, complete and file with CPS Form CPS-3200 within 72 hours after the telephone call to CPS.
- D. If the suspected child abuse or neglect occurred at any of the following locations, report the suspected child abuse or neglect to Michigan State Police: (1) in a classroom or elsewhere on school property; (2) on a school bus or other school-related vehicle; or (3) at a school-sponsored activity or other event regardless of whether it is held on school premises. The report to Michigan State Police may be made using the following link: <https://survey.vovici.com/se/6CAB81316491E30E>

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Series 4000: District Employment

4200 Employee Conduct and Ethics

4203-AG Corporal Punishment and Limited Use of Reasonable Force

A list of alternatives to corporal punishment includes the following:

- provide direct instruction to students in social skills and problem-solving strategies;
- use positive reinforcement to teach and maintain the use of appropriate problem-solving and social skills;
- use social reinforcers, such as teacher feedback and other self-esteem enhancing activities, to support and maintain the use of problem-solving and social skills;
- apply logical consequences that will teach students personal responsibility for their actions (e.g., losing the privilege of participating in special school activities);
- consider the use of time out, which may allow students to learn to take control of their actions and, ultimately, in conjunction with instruction in social skills, to cease their undesirable behavior;
- employ problem-solving classroom meetings and/or school assemblies with honest discussion of problems to encourage student ownership of and responsibility for solutions;
- establish a variety of strategies for communicating with parents/guardians;
- establish contractual agreements that clearly outline consequences with students and their parents/guardians to enhance the development of self-control behavior;
- establish an in-school suspension program, supervised by a responsible adult, in which the student performs curricula-related activities;
- when necessary, refer students to a counselor, social worker, or psychologist at the local or intermediate level and coordinate services with other units of state government (e.g., public health, social services, mental health). Also, seek assistance from private institutions or agencies with appropriate services;
- evaluate and arrange appropriate curriculum and adequate support for students who need academic acceleration, special education, alternative education, or services for achieving English proficiency;
- consider and take action, in accordance with the applicable student code of conduct and due process of law, when disruptive behavior occurs; or
- consider the use of suspensions or expulsions only after other alternatives have been considered.

The Board adopts the above list. District administration will distribute this list to each employee, volunteer, and contractor.

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Series 4000: District Employment

4200 Employee Conduct and Ethics

4205-AG-1 Criminal Justice Information Security (Non-Criminal Justice Agency)

The District will conduct background checks, consistent with Policy 4205(C) and Administrative Guidance 4205-AG, and will have the Michigan State Police (“MSP”) obtain criminal history record information (“CHRI”) from both the state and Federal Bureau of Investigation (“FBI”) for all District employees, contractors, volunteers, and vendors and their employees who regularly and continuously work under contract as provided in Policy 4205(C)(2). Employees who fail to follow these procedures will be subject to discipline subject to the Superintendent’s review and written approval of any corrective action.

A. Local Agency Security Officer (“LASO”)

The District will appoint the Superintendent and administrative assistant as its LASO who is responsible for the adoption of this guidance along with data/system security.

1. The LASO is responsible for ensuring:
 - a. compliance with these regulations and laws;
 - b. personnel security screening procedures are followed under this administrative guideline;
 - c. approved and appropriate security measures are in place and functioning properly to protect CHRI;
 - d. only approved District employees have access to and are using the information in compliance with the law;
 - e. compliance with this administrative guideline; and
 - f. that the MSP is promptly informed of any security breach(es).
2. The LASO is also responsible for identifying and documenting, to the extent applicable:
 - a. how District equipment is connected to the MSP; and
 - b. who is using the MSP-approved equipment.
3. When a new LASO is established, the District will complete and deliver a LASO appointment form to the MSP and will keep a copy of the appointment form on file indefinitely. The LASO will make all MSP fingerprint account changes.

B. Personnel (Authorized User) Security

Only authorized users will have access to CHRI. An authorized user must be vetted through the national fingerprint background check and be given CHRI access by

the LASO to evaluate potential employees, contractors, or volunteers for employment or assignment. If the District maintains digital CHRI, the LASO will assign authorized users unique passwords compliant to 4205-AG-1 (C)(3) to access it. Those who are not authorized users but who, by the function of their job, will be close to CHRI or computer systems with access to CHRI will be supervised by an authorized user. Employees who do not comply with state or federal laws or District policies or administrative guidelines will be subject to discipline, up to discharge.

1. Security with Separated Authorized Users

After an authorized user is separated from the District, that individual's access to CHRI will be terminated within twenty-four (24) hours. This includes, but is not limited to, returning keys, access cards, and ceasing access to digital CHRI.

2. Security with Transferred Authorized Users

When an authorized user is transferred or reassigned, the LASO will take steps necessary to block that individual's access to CHRI within twenty-four (24) hours, unless the LASO determines that the individual must retain access.

C. Media Protection

Authorized users may only access CHRI on authorized devices, which does not include a personally owned mobile device, cell phone, computer, or other technology, unless the personally owned devices are approved, consistent with specific terms and conditions, for access. All CHRI (including digital media) will be maintained in a physically secure location or controlled area. A physically secure location or controlled area will be (1) locked whenever an authorized user is not present or supervising and (2) limit access to unauthorized users. An authorized user accessing CHRI must position the media to prevent unauthorized users from accessing or viewing CHRI. Physical CHRI will be stored in a locked filing cabinet, safe, or vault. Digital CHRI will be encrypted consistent with FBI CJIS Security Policy. If digital CHRI is stored on a storage device without encryption, it must be stored like physical CHRI.

1. Media Transport

The LASO must approve all CHRI media transportation and will not grant approval unless transportation is reasonably justified. CHRI must be secured during transport. Physical CHRI must be transported in a sealed, locked, or secured medium and digital CHRI must be encrypted, and if not, secured in the same fashion as physical CHRI.

2. Media Disposal/Sanitization

CHRI media will be stored and retained for the duration required by law. Disposal must be made with the written approval of the LASO and the Superintendent. Only authorized users may dispose of CHRI media. Physical media will be cross-cut shredded or incinerated. Digital media must either be overwritten at least three (3) times or degaussed, passing a strong magnet over

the media, before disposal or reuse. The LASO will keep written records (date and authorized user's signature) of CHRI media destroyed and the process for destroying or sanitizing CHRI media for ten (10) years.

3. Passwords

When the LASO assigns a unique password to an authorized user, it must have the following attributes:

- a. at least eight (8) characters;
- b. not consisting of only a proper noun or word found in a dictionary;
- c. not similar or identical to the username;
- d. not be displayed while entered or transmitted outside of the physically secure location or controlled area;
- e. expires every ninety (90) days; and
- f. cannot be the same as the previous ten (10) passwords.

4. Security Awareness Training

The District will provide all authorized users with security awareness training, following the template provided on the MSP website, within six (6) months of authorization and every two (2) years thereafter. The LASO will keep a current record of all users who have completed the training.

5. CHRI Dissemination

The District must maintain a record of any CHRI dissemination to another authorized agency, consistent with the Revised School Code, which must include (1) date of release, (2) records released, (3) means of sharing, (4) District personnel who disseminated the CHRI, (5) whether authorization to disseminate was obtained, and (6) the agency to whom the CHRI was disseminated and the recipient's name.

D. Incident Handling

1. In General

The District has established operational incident handling procedures for instances of an information security breach. CHRI security breach incidents will be tracked using the report the MSP provides on its website https://www.michigan.gov/msp/0,4643,7-123-72297_24055-332662--,00.html. The District has provided specific handling capabilities for CHRI, consistent with the following table:

Capabilities shall be handled according to the following description:	Physical – Hard Copy CHRI	Digital – Digitally Accessed/Saved CHRI
Preparation	The CHRI container will be locked at all times in the office in which it is stored. When office staff is not present, the office must be locked	Firewalls, anti-virus protection, and anti-malware/spyware protection will be maintained.
Detection	Physical intrusions to the building will be monitored. A building alarm or video surveillance will monitor for physical or unauthorized intrusions. The building must be locked at night.	Electronic intrusions will be monitored by the virus and malware/spyware detection.
Analysis	The LASO will work with police authorities to determine how the incident occurred and what data was affected.	The IT department will determine what systems or data were affected and compromised.
Containment	The LASO will lock uncompromised CHRI in a secure container or transport CHRI to a secure area.	The IT department will stop the spread of any intrusion and prevent further damage.
Eradication	The LASO will work with local law enforcement to remove any threats that compromise CHRI data.	The IT department will remove the intrusion before restoring the system. All steps necessary to prevent recurrence will be taken before restoring the system
Recovery	Local law enforcement will handle and oversee the recovery of stolen CHRI media. The LASO may contact MSP for assistance in re-fingerprinting, if necessary.	The IT department will restore the agency information system and media to a safe environment.

When a CHRI security breach incident occurs, the following will apply:

- a. the LASO will be notified immediately;
 - b. the LASO or appointed authorized user will stop any unauthorized access, secure the media, and shut down the systems necessary to avoid further unauthorized exposure;
 - c. the LASO or appointed authorized user will record all necessary information regarding the breach, the District's response to the breach, and who was involved in taking response measures;
 - d. the LASO will file the incident report with the MSP; and
 - e. when such incident results in legal action (either civil or criminal) against a person or the District, evidence shall be collected, retained, and presented according to the evidentiary rules of the appropriate jurisdiction(s).
2. Mobile Device Incident Handling

The District will, in addition to the handling procedure in the table above, establish and implement additional procedures for mobile devices to reduce the risk of unauthorized access to CHRI.

When a device is lost, the District will document and indicate how long the device has been lost. For a lost device, the District will report if the owner believed the device was locked, unlocked, or could not verify the device's locked state. For a total loss of a device (unrecoverable), the District will report if CHRI was stored on the device, whether it was locked or unlocked, and whether the District can track or wipe the device remotely. The District will report any compromise of a device while still in the owner's possession and any compromise outside of the United States.

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Series 4000: District Employment

4200 Employee Conduct and Ethics

4205-AG-2 Hiring and Background Checks

The Superintendent or designee should generally follow the procedure below before hiring an applicant for direct employment, allowing a person to regularly and continuously work under contract in a District school, or assigning a volunteer.

A. Employment Applicant

1. General Procedure

Except for conditional hires, as described in section A(2) below, the following procedure should be used:

- a. Direct the applicant to complete form 4205-F and request unprofessional conduct information from current and former employers pertaining to applicant.
- b. If desired, interview the applicant.
- c. Verify the applicant's certification, license, or endorsement if required for the position.
- d. Make a written employment offer to the applicant. The correspondence should state that the offer is contingent on the District's satisfaction with the results of the background check required by Policy 4205 and may be subject to Board approval.
- e. Request the Michigan State Police to conduct a criminal background history check and criminal records check on the applicant.
- f. Review Michigan State Police results for the following:
 - i. Listed offenses are defined in MCL 28.722. A MDE summary of listed offenses is available at:

https://www.michigan.gov/documents/mde/Criminal_Convictions_Enumerated_Offenses_560187_7.PDF

According to Michigan law, the District may not employ applicants convicted of a listed offense.
 - ii. Any felony conviction.
 - iii. For other convictions not identified above, the District may consider the nature of the crime, length of time since the conviction, relationship to job responsibilities, and conduct since the conviction.

- g. The District may hire an applicant with a felony conviction with written approval from the Superintendent and the Board. Board action is required to employ the applicant.
- h. Ensure that before the applicant begins employment, the applicant signs an employment contract (if applicable), IRS Form W-4, USCIS Form I-9, and any other documents required by the District before beginning employment.

2. Conditional Employment

If it is not feasible to complete all of the steps in section A(1) before hiring an applicant because it is necessary to fill the position during the school year or within 30 days before the beginning of a school year, the applicant will be subject to the procedure in section A(1) above and:

- a. The applicant must complete, sign, and date the MDE Conviction Disclosure Form, which is available at:

https://www.michigan.gov/documents/mde/Criminal_Convictions_560332_7.pdf

- b. To the extent possible, the Superintendent or designee will follow the procedures set forth in section A(1) above.
- c. After receiving the Michigan State Police criminal history check and criminal record check, compare the results of those checks with the Conviction Disclosure Form in section A(2)(a), above. If the check results list convictions other than those disclosed in the form, the Superintendent or designee may notify the employee that the employee's employment contract is void and that the employee is terminated.

B. Contractor Regularly and Continuously Assigned to a District School

1. General Procedure

Except for conditional assignments, as described in section B(2) below, the following procedure applies before the District allows a person to regularly and continuously work under contract in a District school (Contractor):

- a. Require the Contractor to complete form 4205-F and request background information from current and former employers pertaining to Contractor.
- b. Request the Michigan State Police to conduct a criminal background history check and criminal records check on the Contractor.
- c. After receiving the information from the Michigan State Police, the District will follow the procedures set forth in section A(1)(f) and (g).

2. Conditional Assignment

If it is not feasible to conduct the procedure in section B(1) because it is necessary to allow the Contractor to work during the school year or to allow the Contractor to work within 30 days before the beginning of a school year, then the District will follow the procedures set forth in section A(2), above.

C. Volunteer

Volunteering is a privilege, not a right. Use of a volunteer is at the District's sole discretion. Prior criminal conviction is not required to exclude a potential volunteer.

1. Check the volunteer applicant's criminal history using iChat. A volunteer who has been convicted of a listed offense, as defined in MCL 28.722, is prohibited from volunteering. If the volunteer has been convicted of a felony other than a listed offense, written approval from both the Superintendent and Board is required to assign the applicant and the Board must act to assign the volunteer. MDE's summary of listed offenses is available at:

https://www.michigan.gov/documents/mde/Criminal_Convictions_Enumerated_Offenses_560187_7.PDF.

2. Consider other factors deemed relevant.
3. An administrator or designee will inform the volunteer if he/she was selected for the assignment.

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4200 Employee Conduct and Ethics

4207-AG Third Party Contracting of Non-Instructional Support Services

Contracting non-instructional support services is a prohibited bargaining subject under the Public Employment Relations Act (PERA) Section 15(3)(f). When the District is considering contracting non-instructional support services that are currently performed by a recognized bargaining unit, the District must seek bids for such work from third party contractors. The bargaining unit will have an opportunity to submit a bid on an equal basis as other bidders consistent with PERA.

The term “non-instructional support services” refers to support services that are not specific to the educational goals of schools and typically include staff who perform clerical, secretarial, custodial, maintenance, food service, non-instructional paraprofessional, or transportation functions.

The Board is not required to bargain over the procedures for obtaining the contract for non-instructional support services, the identity of the third party contractor, or the impact of the contract for non-instructional support services on individual employees or the bargaining unit.

Requests for Proposals (RFP) will be issued as follows:

- A. Consult with legal counsel to ensure that the contemplated RFP meets PERA requirements.
- B. Notice of bidding opportunities to the bargaining unit may be provided by: (a) personal delivery with the bargaining unit president’s written acknowledgment of the date and time of RFP receipt; (b) email with a return written acknowledgment of delivery; or (c) certified U.S. Mail, return receipt requested.
- C. The RFP may comply with other Policies regarding bidding as necessary.

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4200 Employee Conduct and Ethics

4211-AG Alcohol and Controlled Substances for Transportation Employees Subject to the Omnibus Transportation Employee Testing Act

The U.S. Department of Transportation provides forms and guidelines pertaining to the Omnibus Transportation Employee Testing Act. The Superintendent or designee shall refer to those forms and guidelines as necessary.

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Series 4000: District Employment

4200 Employee Conduct and Ethics

4224-AG Personnel Files and Payroll Information

The following documents may be kept in an employee's personnel file. Some or all personnel documents may be maintained electronically. Before disclosing any employee's personnel file, the file must be reviewed for redaction and exemption under state and federal law. The personnel file may consist of four subfiles: (A) General Personnel File, (B) Financial/Benefit Personnel File, (C) Payroll Information, and (D) General Confidential File.

A. General Personnel File

1. Basic employee information.
2. Individual employment contract, if applicable.
3. Emergency contact information.
4. Job description.
5. Job application and resume.
6. Certifications and licenses.
7. Transcripts/Professional Development.
8. Performance evaluations.
9. Individual Development Plans.
10. Records relating to promotion, demotion, transfer, layoff, recall, rates of pay, and compensation.
11. Handbooks and policy acknowledgement forms.
12. Record of disciplinary action, including any substantiated instance of unprofessional conduct.
13. Termination documents, including separation, severance, and retirement agreements.
14. Employment references if the identity of the person making the reference would not be disclosed.
15. Attendance/absence records.
16. Accrued paid leave or compensatory time (if applicable).

B. Financial/Benefit Personnel File

The following documents may be kept separate from the employee's personnel file and the employee's confidential file:

1. Documents pertaining to worker eligibility, including I-9 forms, driver licenses, Equal Employment Opportunity records (documents in which employees self-identify their disability or veteran status).
2. Personal employee data, including bank information, social security number, income tax forms, and immigration forms.
3. Employee benefits documentation, including:
 - a. Enrollment forms;
 - b. Flexible Spending Account forms;
 - c. Election forms; and
 - d. COBRA or state continuation paperwork, if applicable.

C. Payroll Information

1. Payroll deduction authorization forms.
2. Direct deposit authorization.
3. Time sheets.
4. Compensatory time records (if applicable).
5. Overtime requests.
6. Employee expense report.
7. Reimbursement records.
8. Garnishment.

D. General Confidential File

The District will maintain a confidential file for each employee that is kept separate from other documents in the personnel file and kept in a secure location. Documents in this file may be exempt from disclosure under the Freedom of Information Act but should be reviewed on a case-by-case basis. The file shall maintain employee health information and confidential information, including:

1. Medical leave forms and documentation, including FMLA.
2. Employee accident incident reports.
3. Drug test results.

4. Background check.
5. Prior employer's unprofessional conduct reference.
6. Criminal history.
7. Grievances.
8. OSHA forms.
9. Documentation pertaining to employee investigations (only the memoranda of discipline should be kept in the personnel file).
10. Disability or Workers' Compensation Claim forms.
11. Documentation pertaining to ADA accommodation.

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Series 4000: District Employment

4300 Non-Exempt Staff

4304-AG *Timekeeping and Payroll Information*

A. Hours Worked

1. Generally, an employee must be compensated for hours worked, which includes:
 - a. Time during which the employee is required to be on duty or to be on premises; and
 - b. Time during which the employee is suffered or permitted to work, regardless whether the employee is required to work at that time.
2. Examples of hours worked include:
 - a. Required preliminary and concluding activities, such as a bus driver completing an incident report or cleaning the bus.
 - b. Waiting time or on-call time during which the employee is unable to use the time effectively for the employee's own purposes.
 - c. Time spent at Board meetings or other school functions, if the employee's attendance is required as part of the employee's position.
 - d. Short rest periods or breaks (5-20 minutes) where an employee is required to remain on-site.
 - e. Time spent traveling between job sites during the work day.
 - f. A reasonable amount of time to express breast milk if pay is provided for other short breaks.
3. Employees must be paid at least an hourly rate not less than the hourly minimum wage required by federal or Michigan law, whichever is greater. "Stipends" or other specific pay rates for extra-duty positions or activities must satisfy a minimum wage taking into account all of the hours worked by the employee. All hours worked must be reported.
4. Employees who work more than 40 hours in a work week (i.e., 7-day period) must receive compensation at a rate of at least 1.5 times his/her regular hourly rate for each hour in excess of 40 hours worked, unless otherwise provided by the collective bargaining agreement or individual employment contract. Overtime must be calculated and paid consistent with Policy 4302. Paid time (e.g., holidays, personal leave days, sick time, etc.) that is not actually worked by the employee does not count for time worked, unless otherwise provided by the collective bargaining agreement or individual employment contract.

B. Reporting Hours Worked

1. Ensure that procedures are in place for employees to record all hours worked, including overtime, and that employees are not discouraged or prevented from reporting all hours worked consistent with state and federal law.
2. Employees will record hours worked, including overtime hours, in the manner prescribed by the District.
3. Actual hours worked are to be accurately recorded by the employee. Any overtime must be approved in advance by the supervisor, except in cases of emergency.
4. Falsification of time records is serious misconduct and may subject the employee to discipline, up to and including discharge.

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Series 4000: District Employment

4300 Non-Exempt Staff

4307-AG Performance Evaluation

Policy 4307 provides that the Superintendent or designee will: (1) select the evaluation tool to be used for non-exempt (hourly) staff; (2) determine the frequency of the evaluation for the employee; and (3) identify the evaluator. The employee will be informed of the evaluator and provided a copy of the evaluation tool. The evaluator will be familiar with the employee's work and job responsibilities.

A. Evaluation Factors

The evaluation tool may include performance and proficiency standards, an employee's attendance, punctuality, knowledge of job duties, quality and effectiveness of work, productivity and initiative, ability to work with others, attitude, reliability, and other factors relevant to the employee's job duties that allow a full and complete assessment of an employee's job performance.

B. Evaluation Frequency

Generally, the evaluation frequency should be consistent for both union and non-union employees. Annual evaluations are encouraged. Probationary employees should be evaluated at least once during the probationary period, unless otherwise provided by the collective bargaining agreement.

C. Evaluation Rating

At a minimum, evaluation scores will include designations such as ineffective, minimally effective, effective, or highly effective. An evaluator may place an employee on an improvement plan, as determined by the evaluator and consistent with the applicable collective bargaining agreement.

D. Signatures of Evaluator and Employee

The evaluator and the employee must sign and date the evaluation. The evaluation tool may include a statement that by signing the evaluation, the employee acknowledges receipt of, rather than agreement with, the evaluation. The employee may provide a written rebuttal, not to exceed 5 pages, within 14 calendar days, which will be attached to the evaluation.

E. Optional Evaluation Conference

At the employee's or employer's request, the evaluator may conduct an evaluation conference to review the evaluation and any improvement plan.

F. Inclusion in Personnel File

The evaluation will be retained in the personnel file and may be stored electronically.

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Series 4000: District Employment

4500 Administrators/Supervisors

4508-AG Administrator Non-Renewal

Non-renewal of an Administrator's or Supervisor's contract is a complex process that requires advance preparation and notice. The Superintendent or designee should consult legal counsel to assist when non-renewing any Administrator's or Supervisor's contract.

A. Administrators Subject to Revised School Code Section 1229(2)

Unless the Administrator's employment contract or applicable collective bargaining agreement provides a different process, the statutory process to renew an Administrator's contract is as follows:

1. Statutorily mandated written notice from the Superintendent or designee of the reasons for Board consideration of non-renewal shall be provided to the Administrator with the date, time, and location of the Board meeting;
2. Board review of the recommendation for consideration of non-renewal may be in closed session at the Administrator's request, provided that the reasons for non-renewal are not due to finances or reorganization;
3. Statutorily mandated written notice of the Board's action to consider non-renewal must be provided to the Administrator, including an opportunity to meet with not less than a majority of the Board to discuss the reasons for non-renewal. When appropriate, the Administrator may request a closed session. The Superintendent or designee will provide the Administrator with the statutorily mandated written notice of this meeting;
4. The Administrator will be timely notified of the date, time, and location of the Board meeting for review of the non-renewal recommendation;
5. Board actions will be in open session;
6. Statutorily mandated notification of the Board's action will be provided to the Administrator; and
7. Tenure rights as a classroom teacher may continue to apply.

B. Non-Renewal of a Supervisor or Director

Unless the Supervisor's or Director's employment contract or applicable collective bargaining agreement provides a different process, non-renewal of a Supervisor's or Director's contract will include the following:

1. Timely written notice to the Supervisor or Director that the Superintendent or designee will recommend that the Board non-renew the Supervisor's or Director's employment contract. The notice will include the date, time, and

location of the Board meeting. The Supervisor or Director may request that the Board meet in closed session to consider the contract non-renewal, provided that the reasons for non-renewal are not due to finances or reorganization;

2. At the Board meeting, the Supervisor or Director will have an opportunity to respond to the contract non-renewal recommendation before the Board;
3. Board actions will be in open session; and
4. Timely written notice to the Supervisor or Director of the Board's determination on the contract non-renewal recommendation shall be provided to the Supervisor or Director.

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Series 5000: Students, Curriculum, and Academic Matters

5700 Student Health and Safety

5708-AG Do-Not-Resuscitate (DNR) Orders

- A. Upon receipt of a Do-Not-Resuscitate (DNR) order or POST (physician orders for scope of treatment) form for a student, the Superintendent, building administrator, or Superintendent's designee will:
1. Within five school days coordinate a meeting with the student (if appropriate), the student's parent/guardian and physician(s) (if available), and appropriate school personnel to develop an emergency response plan that includes an individual resuscitation plan and comfort-care measures for the student. If a physician is not available, the District will request and review written input from a physician. If any such plan is not consistent with the student's Section 504 plan or Individualized Education Program (IEP), the Superintendent, building administrator, or Superintendent's designee will ensure that a Section 504 or IEP Team meeting for the student is promptly convened. If the student does not currently have a Section 504 plan or IEP, the Superintendent, building administrator, or Superintendent's designee will consider whether to refer the student for an appropriate evaluation.
 2. Consult with District legal counsel if there are concerns that the DNR order or POST form was not obtained in a manner that complies with Michigan law or if there are concerns that the DNR order or POST form are not in the student's best interests.
 3. Maintain the DNR order, POST form, or individual emergency response plan in a separate, designated file.
 4. Provide actual notice of the DNR order, POST form, or individual emergency response plan to all personnel responsible for providing instructional and noninstructional services for the student.
 5. Ensure that all personnel, including volunteers and contractors, responsible for providing instructional and noninstructional services for the student receive training on the student's emergency response plan, including the individual resuscitation plan and comfort-care measures. The training must include notice to appropriate personnel that the Heimlich maneuver or other similar procedures used to expel an obstruction from an individual's throat does not constitute a resuscitative measure and may be performed even for a student with a DNR order or POST form.
 6. Convene a meeting of the student (if appropriate), the student's parents/guardians and physician(s), and appropriate school personnel at the beginning of each school year to determine if the DNR order or POST form has been modified or revoked and to review and revise the student's emergency response plan as needed.

7. Contact emergency medical personnel any time a student's medical condition appears to be life threatening, even if the student has an emergency response plan that includes an individual resuscitation plan. If a health professional arrives during the emergency situation, the health professional will determine if the student has one or more vital signs.
 8. Provide emergency medical personnel a copy of any DNR order or POST form of which the Superintendent, building administrator, or Superintendent's designee has actual notice.
 9. Follow any emergency described above by debriefing with the student (if appropriate), the student's parents/guardians and physician(s), and appropriate school personnel to review the emergency response plan and to discuss how the plan may be improved.
 10. Follow any emergency by addressing the emotional needs of other students and personnel who witnessed the emergency.
 11. Summarize all understandings in a letter to the student (if appropriate) and the student's parents/guardians and physician(s).
- B. Pursuant to the Michigan Do-Not-Resuscitate Procedure Act, a parent/guardian or student may revoke a DNR order or POST form at any time by providing actual notice to the Superintendent, building administrator, or Superintendent's designee. Upon receipt of such notice, the Superintendent, building administrator, or Superintendent's designee will:
1. Provide actual notice to all personnel responsible for providing instructional and noninstructional services to the student that the DNR order or POST form is no longer applicable and that personnel should follow standard emergency response policies and practices for the student.
 2. Maintain a copy of the written notice in the file created for the student's DNR orders, POST forms, or emergency response plans.
 3. Convene a meeting with the student (if appropriate), the student's parents/guardians and physician(s), and appropriate school personnel to modify the emergency response plan, including the individual resuscitation plan and comfort-care measures. If any such plan is not consistent with the student's Section 504 plan or IEP, the Superintendent, building administrator, or Superintendent's designee will ensure that a Section 504 or IEP Team meeting for the student is promptly convened.
 4. Ensure that emergency medical personnel are made aware that the student's DNR order or POST form has been revoked and that all appropriate life-saving measures should be used if an emergency arises.

If school staff become aware that a student has expressed an intent to revoke a DNR order or POST form, the staff member must immediately report that

information to the building administrator, Superintendent, or Superintendent's designee.

- C. As used in this Administrative Guideline, actual notice includes the physical presentation of an order, a revocation of an order, or another written document authorized under the Michigan Do-Not-Resuscitate Procedure Act.
- D. The building administrator or Superintendent's designee is responsible for supervising the steps outlined above.

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