Freedom of Information Act (FOIA) Procedures and Guidelines

This document serves as Procedural Support to Policy 3501. The Crawford-Oscoda-Ogemaw-Roscommon (C.O.O.R.) ISD supports the public's right to information regarding the affairs of COOR ISD. This document outlines our practices and policies in regard to requests for records under the Michigan Freedom of Information Act (FOIA).

C.O.O.R. ISD Superintendent will serve as the FOIA Coordinator and is responsible for accepting and processing all FOIA requests and approving denials. FOIA requests must be in writing and describe a public record sufficiently to enable the District to find the public record. All FOIA requests received by District employees must be forwarded to the FOIA Coordinator. In the event the FOIA Coordinator feels circumstances appropriate, he/she may contact legal counsel at his/her own discretion. The FOIA Coordinator will keep a file copy of all FOIA requests for one year.

Upon receipt of a written FOIA request, the FOIA Coordinator may, if deemed necessary, forward notice of the request, specifically describing each public record requested to all Department Directors within the ISD (hereinafter "FOIA Notice"). In the event notice of a FOIA Notice is sent to Department Directors, the FOIA Coordinator shall include within each FOIA Notice the date in which the FOIA request is received as prescribed by the Act, as well as the date(s) in which a response is due, including both a response due within the five (5) days prescribed by the Act as well as the date in which a response is due pursuant to the ten (10) day extension. Each Department Director shall have two (2) business days to respond to the FOIA Coordinator in one of the following ways:

1. Stating that the documents do not exist within his or her department.
2. Stating that some or all of the documents exist within his or her department and provide those documents located to the FOIA Coordinator.
3. Stating that a ten (10) day extension is required to search, review, and copy the documents requested.

If a Department Director requests a ten (10) day extension pursuant to the Act, the Department Director shall then provide the documents located or a statement that the documents do not exist within three (3) business days prior to the final date for the response as indicated in the FOIA Notice.

The FOIA Coordinator will respond within five (5) business days to a written request for a public document or record under the Freedom of Information Act in one of the following ways:

1. Grant the request.
2. Issue a written notice to the requesting person denying the request.
3. Grant the request in part and issue a written notice to the requesting person denying the request in part.
4. Issue a notice extending for not more than ten (10) business days the period during which the FOIA Coordinator shall respond to the request.

If the FOIA Coordinator denies a request, the FOIA Coordinator will explain the reasons for denying the request, that is, either the public record is exempt from disclosure or the public record does not exist or such other reason as permitted by law. The FOIA Coordinator will inform the requesting party of the right to appeal the denial to the Board or seek judicial review. Notification of the right to judicial review must include notification of the right to receive

reasonable attorney fees, costs, and possible damages. If the requesting person submits a written appeal to the Board, the Board will have ten (10) business days after its next regularly scheduled meeting to decide whether to reverse or uphold the denial. The Board may, under unusual circumstances, issue a notice extending for not more than ten (10) business days the time to respond to the appeal.

Charging of Fees

The Freedom of Information Act permits a public body to charge a fee for the necessary searching and extracting of a public record for inspection or for providing a copy of a public record. If the fee will exceed $50, the FOIA Coordinator may request a good faith deposit of one-half of the estimated fee and process the request only after receipt of the deposit. The District may require the requestor pay the fee in full before releasing the records requested.

The FOIA Coordinator shall prepare guidelines for charging fees consistent with the law and the District's policy and rule. Fees shall be uniform and not dependent upon the identity of the requester. A fee will not be charged if the District determines the request primarily benefits the general public. The decision to charge a fee shall be determined on a case-by-case basis by the Superintendent. The first $20 of the fee will not be charged if the requester submits an affidavit that he or she is on public assistance or indigent. A records charge invoice could be included as part of the FOIA coordinator's response. The FOIA coordinator may choose not to charge a fee under $10 for the first FOIA request from any one requestor.

Guidelines for Charging Fees

If C.O.O.R. ISD charges a fee, the following guidelines for calculating the fee shall be followed:
1. Materials – Paper, media & mailing
    a. If requestor stipulates non-paper and the district has the technological capacity to comply, it must provide non-paper. If there is a cost associated with producing such a record, the "actual and most reasonably economical cost" of the media may be charged.

    b. If paper is provided, the "actual total incremental cost" of the copies may be charged. The district will utilize double-sided printing if economical and available

    c. If materials are mailed, then send in a "reasonably economical and justifiable manner" No charge for expedited mail or insurance unless stipulated by requestor. A detailed itemization of charges will be provided to requestor.

2. The labor cost (that is the hourly wage, including fringe benefit costs, of the lowest paid employee capable of retrieving the information) for the time spent copying and mailing the record will be charged. Labor will be recorded in 15 minute increments, rounded down.
    a. The labor cost for the time spent searching, examining, reviewing and deleting/separating exempt from nonexempt information will be charged when the cost to respond to the FOIA request is unreasonably high. This determination will be made on a case-by-case basis considering the volume and complexity of the FOIA request, including the number of documents requested, the number of documents that must be searched to respond to the request, the location of the

documents, the number of documents that must be examined to respond to the request, and the amount of information that must be redacted.

b. As a general rule, if more than one-half hour is spent on this task, then the labor cost will be charged (For example, this labor cost will not be charged if the FOIA request seeks easily identifiable and easily retrievable documents consisting of a few pages and requires minimal redactions; the labor cost will be charged if the FOIA request seeks multiple records or requires a search of numerous records, or a search of records stored in different locations or mediums, or requires review for exempt material, or requires redaction of exempt material).

c. The actual cost of labor of employees searching for, locating, examining, separating exempt and non-exempt material, redacting material will be computed as the hourly wage of lowest-paid employee who is capable of the work, regardless of who actually does the work. The time will be charged in 15 minute increments, rounded down.

d. If a non-employee separates exempt and non-exempt material or does the redaction, the maximum labor cost for those outsourced tasks will be six (6) times the state minimum wage. There will be no charge if the redacted version already exists.

e. In the event that overtime is expected to be necessary to complete the task of searching for, locating, examining, or separating exempt and non-exempt material, the requestor would be informed that overtime fees would be charged in order to comply with meeting the FOIA request timeframe.

f. A detailed itemization of the charges will be provided to the requestor.

Appeal to Board

A person submitting a written request to the FOIA coordinator under the Freedom of Information Act has a right to appeal any denial of the request by the FOIA coordinator to the Board. If a FOIA request is denied by the FOIA coordinator, the FOIA coordinator must send a written notice containing the reasons for denial and explain the right to submit a written appeal to the Board or seek judicial review in court.

A person whose FOIA request is denied and who elects to appeal the denial to the Board must submit a written appeal to the Board using the word "appeal" and stating the reasons why the denial should be reversed.

The Board will have up to ten (10) days following its next regularly scheduled monthly meeting, in order to reverse the denial; uphold the denial; or, under unusual circumstances, issue a notice extending for no more than ten (10) additional business days the time to respond to the appeal.

The FOIA coordinator will attend the meeting of the Board and be prepared to explain the reasons for the denial of the FOIA request. The person appealing the denial may be invited to attend the Board meeting and address the Board.

The Board will reach a decision based on the requirements of the FOIA law. A FOIA coordinator's decision will be upheld if the record does not exist or the Board elects to rely on one of the statutory exceptions. If the Board reverses the FOIA coordinator's denial, the Board will direct the FOIA coordinator to produce the requested material. If the Board upholds the

FOIA coordinator's denial, the Board will inform the person appealing in writing that the FOIA request has been denied on appeal and inform the person of the right to seek judicial relief. If the Board reverses the denial in part and upholds the denial in part, then the Board will direct the FOIA coordinator to produce certain of the material requested and inform the person appealing that as to the material not disclosed, the person may seek judicial relief.