

Freedom of Information Act (FOIA) Procedures and Guidelines Summary Lenawee Intermediate School District (LISD)

The following procedures and guidelines explain how to submit a request to the Lenawee Intermediate School District (LISD) for a public record and how to understand the LISD's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal.

Submission of a Request for Public Records

1. All requests to review or receive a copy of the LISD's public records should be made in writing describing the records requested and clearly identifying the communication as a request for public records. Requests should be sent to the LISD FOIA Coordinator:

Kyle Hoffman, Director, Legal Services, Grants, & Development
Lenawee Intermediate School District
4107 N. Adrian Highway
Adrian, Michigan 49221

Email to: Kyle.Hoffman@lisd.us

2. The request must indicate how the public records should be provided to the requestor. Options may include:
 - A. Have the documents sent to a provided email address;
 - B. Provide the documents on nonpaper physical media such as a CD, flashdrive, or other digital media;
 - C. Provide hard copies of the records to be picked up by the requestor or to be mailed to a provided address;
 - D. Make the records available for review at the LISD's offices.

The LISD is not required to provide electronic files if the LISD lacks the technological capability necessary to provide the requested records on the nonpaper physical media stipulated in the request.

3. The requestor must indicate if they are exempt from fees as follows:
 - A. If the individual is indigent and provides an affidavit to the LISD describing the indigency;
 - B. The requestor is a nonprofit agency designated to carry out activities in support of individuals with developmental disabilities and/or mental illness, and the request is made on behalf of the organization or its clients and is made for a reason consistent with its mission.

Review of a Request for Production of Public Records

1. The LISD will review the request for information for the purpose of determining:

- A. Whether or not the LISD has the requested information;
- B. Whether any portion or all of the requested information is exempt from disclosure;
- C. Whether the requested records are available on the LISD's website.

Public Record Search and Production Fee

The LISD may charge a fee for necessary copying of a public record, for inspection, or for providing a copy of a public record. Fees may be charged in one or more of six categories, which are:

1. Labor costs for searching, locating, and examining the public records
 - A. Labor costs will be charged in 15 minute increments with all partial time rounded down.
 - B. Labor costs will be based on the hourly wage of the lowest-paid LISD employee capable of performing the tasks, regardless of who actually performs the task, and will also include a charge up to 50% of the applicable hourly wage to cover or partially cover the cost of fringe benefits. However, the benefit cost charged will not be more than the actual cost of fringe benefits.
2. Labor costs for separating and deleting exempt information from nonexempt information, including contracted labor costs when necessary
 - A. Labor costs will be charged in 15 minute increments with all partial time rounded down.
 - B. Labor costs will be based on the hourly wage of the lowest-paid LISD employee capable of performing the tasks, regardless of who actually performs the task, and will also include a charge up to 50% of the applicable hourly wage to cover or partially cover the cost of fringe benefits. However, the benefit cost charged will not be more than the actual cost of fringe benefits.
 - C. If the FOIA Coordinator determines that there is no LISD employee capable of redacting the exempt information, the FOIA Coordinator may contract with a third party for the labor and treat the contracted labor costs in the same manner as employee labor costs, provided that the hourly rate charged doesn't exceed six times Michigan's then-current hourly minimum wage.
 - D. The LISD will not charge for labor costs directly associated with redacting exempt information if the LISD knows or has reason to know that it previously redacted the public record in question and the LISD still possesses the redacted version.
3. Electronic record provision costs (nonpaper physical media)
 - A. The fee charged will be the actual and most reasonably economical cost of the electronic record (nonpaper physical media).
4. Paper copy costs
 - A. The LISD will charge a fee of \$.10 per sheet of paper for all copies made on 8 ½- by 11-inch or 8 ½- by 14-inch paper.
 - B. The fee for all other sized paper will be the actual and total cost of the copy.
5. Labor costs for duplication or publication

- A. Labor costs will be charged on one (1) minute increments with all partial time rounded down.
 - B. Labor costs will be based on the hourly wage of the lowest-paid LISD employee capable of performing the tasks, regardless of who actually performs the task, and will also include a charge up to 50% of the applicable hourly wage to cover or partially cover the cost of fringe benefits. However, the benefit cost charged will not be more than the actual cost of fringe benefits.
6. Mailing costs
- A. The fee charged will be the actual cost of mailing the public records in a reasonably economical and justifiable manner.
 - B. The LISD may charge for the least expensive form of postal delivery confirmation.

In determining the fee to be charged, the LISD will use a standard form to provide a detailed itemization of any fee amount to be charged by the District in response to a request for public records. A copy of the standard form to be used by the LISD is included with these procedures and guidelines.

The District will not assess a fee for the costs of search, examination, review, and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the District, and the District specifically identifies the nature of the unreasonably high costs.

If the LISD determines that a fee will be charged, the LISD will, as soon as possible, but not later than five (5) business days after the request is received, provide the requestor with a written estimate of the costs to be charged by the LISD of the requestor. However, the calculation and provision of a fee estimate will not change the LISD's obligations under the LISD Response heading below.

Deposit

The written fee estimate may also require a deposit from the requestor. The written estimate will provide an estimate of the costs by category listed above, will indicate if a deposit is required and the amount of the deposit, and will provide an estimate of the time frame that it will require for the LISD to respond to the request. If a deposit is required, the LISD will begin the process of compiling the requested records when it receives the deposit. If no deposit is required, the LISD will begin the process of compiling the requested records unless the requestor objects to payment of the estimated fees. If objection is not received within 24 hours from the time that the fee estimate form is provided to the requestor, the LISD will proceed as though the requestor agrees to payment of the fees.

The LISD may require a deposit if either of the following are determined:

1. If the LISD has made a good faith calculation that the total fee for processing the request exceeds \$50.00, the LISD will require that the requestor provide a deposit equal to 50% of the total estimated fee.
2. If the requestor has not paid the LISD for the provision of public records made in fulfillment of one or more previously granted requests, the LISD will require a deposit equal to 100% of the total estimated fee.

LISD Response

1. Once the request is received by the LISD's FOIA Coordinator, the LISD will respond within five (5) business days by doing one of the following:
 - A. Grant the request as written; or
 - B. Provide written notice that the request is being denied with a reason for the denial; or
 - C. Grant part of the request and provide written notice that the other part of the request is being denied with a reason for the denial; or
 - D. Provide written notice that the LISD requires additional business days to respond to the request, which will not exceed 10 additional business days;
 - E. Provide written notice that the requested information is available on the LISD's website with a link to the information.

Appeals Process

Denial of Public Records Request

If the LISD FOIA Coordinator denies the FOIA request, the requestor may appeal the request by:

- A. Submitting a written appeal to the Board of Education of the LISD that clearly states the word "appeal" and identifies the reason or reasons for why the denial should be reversed.

Within 10 business days after the Board of Education's first regularly scheduled meeting following receipt by the LISD of a written appeal, the Board of Education of the LISD will do one (1) of the following:

- A. Reverse the disclosure denial; or
- B. Issue a written notice to the requesting person upholding the disclosure denial; or
- C. Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part; or
- D. Issue a notice extending for not more than 10 business days the period the period during which the LISD shall respond to the written appeal. The Board of Education will not issue more than one (1) notice of extension for a particular written appeal.

If the LISD Board of Education fails to respond to a written appeal, or upholds all or a portion of the disclosure denial that is subject to the written appeal, the requestor may commence a civil action in the Lenawee County Circuit Court to compel the District to disclose the public records within 180 days after a public body's final determination to deny the request.

Excessive Fee

If the LISD requires a fee that exceeds the amount permitted under these procedures and guidelines, the requestor may do the following:

- A. Submit a written appeal to the Board of Education of the LISD that clearly states the word "appeal" and identifies how the required fee exceeds the amount permitted under these procedures and guidelines.

Within 10 business days after the Board of Education's first regularly scheduled meeting following receipt by the LISD of a written appeal regarding the fee charged, the Board of Education of the LISD will do one (1) of the following:

- A. Waive the fee; or
- B. Reduce the fee and issue a written determination to the requestor indicating the basis that supports the non-waived portion of the fee; or
- C. Uphold the fee and issue a written determination to the requestor indicating the basis that supports the required fee; or
- D. Issue a notice extending for not more than 10 business days the period the period during which the LISD shall respond to the written appeal. The Board of Education will not issue more than one (1) notice of extension for a particular written appeal.

If the Board of Education fails to respond to a written appeal or issued a determination that the requestor believes to still result in a fee that exceeds the amount permitted under its publicly available procedures and guidelines or State law, the requestor may commence a civil action in the Lenawee County Circuit Court. The action must be filed within 45 days after receiving the notice of the required fee. If a civil action is commenced against the LISD, the LISD is not obligated to complete the processing of the written request for the public record until the Court resolves the fee dispute.