

# REWRITTEN

2:250

## Board of Education

### Access to District Public Records

Full access to the District's *public records* is available to any person as provided in the Illinois Freedom of Information Act (FOIA), this policy, and implementing procedures. The Superintendent or designee shall: (1) provide the Board with sufficient information and data to permit the Board to monitor the District's compliance with FOIA and this policy, and (2) report any FOIA requests during the Board's regular meetings along with the status of the District's response.

**Commented [AP1]:** This sentence allows a board to monitor the district's compliance with FOIA, which FOIA calls a *fundamental obligation* of the board.

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### Freedom of Information Officer

The Superintendent shall serve as the District's Freedom of Information Officer and assumes all the duties and powers of that office as provided in FOIA and this policy. The Superintendent may delegate these duties and powers to one or more designees, but the delegation shall not relieve the Superintendent of the responsibility for the action that was delegated.

**Commented [AP2]:** **OPTION 1:** A board may alter this paragraph in one of three ways:

- A. Insert another job title in place of Superintendent. If so, please indicate on your Response Form or include district edits.
- B. Replace paragraph with: "The Board will appoint an employee to serve as the District's Freedom of Information Officer. That appointee assumes all the duties and powers of that office as provided in FOIA and this policy."
- C. Replace paragraph with: "The Superintendent shall appoint an employee, who may be himself or herself, to serve as the District's Freedom of Information Officer. That appointee assumes all the duties and powers of that office as provided in FOIA and this policy."

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### Definition

The District's *public records* are defined as records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary material pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the School District.

### Requesting Records

A request for inspection and/or copies of public records must be made in writing and may be submitted by personal delivery, mail, telefax, or email directed to the District's Freedom of Information Officer. Individuals making a request are not required to state a reason for the request other than to identify when the request is for a commercial purpose or when requesting a fee waiver. The Superintendent or designee shall instruct District employees to immediately forward any request for inspection and copying of a public record to the District's Freedom of Information Officer or designee.

**Commented [AP3]:** **OPTION 2:** Districts may, but are not required to, accept oral requests. The response to an oral request should be documented.

Add this option after the first sentence if the district wants to accept oral requests: "Oral requests may be accepted provided personnel are available to handle them."

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### Responding to Requests

The Freedom of Information Officer shall approve all requests for public records unless:

1. The requested material does not exist;
2. The requested material is exempt from inspection and copying by the Freedom of Information Act; or
3. Complying with the request would be unduly burdensome.

**Commented [AP4]:** This sentence is changed to help prevent inadvertent FOIA violations caused by staff members who informally respond to record requests.

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Within 5 business days after receipt of a request for access to a public record, the Freedom of Information Officer shall comply with or deny the request, unless the time for response is extended as specified in Section 3 of FOIA. The Freedom of Information Officer may extend the time for a response for up to 5 business days from the original due date. If an extension is needed, the Freedom of Information Officer shall: (1) notify the person making the request of the reason for the extension, and (2) either inform the person of the date on which a response will be made, or agree with the person in writing on a compliance period.

The time periods are extended for responding to requests for records made for a *commercial purpose*, requests by a *recurrent requester*, or *voluminous requests*, as those terms are defined in Section 2 of FOIA. The time periods for responding to those requests are governed by Sections 3.1, 3.2, and 3.6 of FOIA.

**Commented [AP5]:** Time periods are now extended for *voluminous requests*.

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When responding to a request for a record containing both exempt and non-exempt material, the Freedom of Information Officer shall redact exempt material from the record before complying with the request.

### Fees

Persons making a request for copies of public records must pay any and all applicable fees. The Freedom of Information Officer shall establish a fee schedule that complies with FOIA and this policy and is subject to the Board's review. The fee schedule shall include copying fees and all other fees to the maximum extent they are permitted by FOIA, including without limitation, search and review fees for responding to a request for a *commercial purpose* and fees, costs, and personnel hours in connection with responding to a *voluminous request*.

**Commented [AP6]:** This section is amended to increase efficiency and avoid paraphrasing a complex law. The first paragraph authorizes the FOIA Officer to establish a fee schedule without needing the board's prior approval. Section 6(a) states: "If a request is not a request for a commercial purpose or a voluminous request, a public body may not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records." This implies that a search and review fee may be charged when responding to a request for a *commercial purpose* or a *voluminous request*. However, Sec. 6(b) states that the search and review fee described in Sec. 6(f) may be charged *only* to someone making a *commercial request*. Sec. 6(f) contains the maximum amounts that may be charged for search and review but does not explain when they may be charged. **The FOIA Officer will need to consult the board attorney concerning fees.**

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Copying fees, except when fixed by statute, shall be reasonably calculated to reimburse the District's actual cost for reproducing and certifying public records and for the use, by any person, of its equipment to copy records. In no case shall the copying fees exceed the maximum fees permitted by FOIA. If the District's actual copying costs are equal to or greater than the maximum fees permitted by FOIA, the Freedom of Information Officer is authorized to use FOIA's maximum fees as the District's fees. No copying fees shall be charged for: (1) the first 50 pages of black and white, letter or legal sized copies, or (2) electronic copies other than the actual cost of the recording medium, except if the response is to a *voluminous request*, as defined in FOIA.

**Commented [AP7]:** This sentence is added to increase efficiency. To see the FOIA fee schedule, refer to 2:250-AP1, *Access to and Copying of District Public Records*.

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A fee reduction is available if the request qualifies under Section 6 of FOIA. The Freedom of Information Officer shall set the amount of the reduction taking into consideration the amount of material requested and the cost of copying it.

**Commented [AP8]:** 5 ILCS 140/6(c) makes it mandatory to furnish records "without charge or at a reduced charge" if the request is in the *public interest* as defined by FOIA. **OPTION 3:** If a board wants to indicate when a reduction is available by paraphrasing the statute, it may substitute the following alternative for the default paragraph: "A fee reduction is available if the person requesting the record states a specific purpose for the request and indicates that a fee reduction is in the public interest by having as its principal purpose the preservation of the general public's health, safety, welfare, or legal rights and is not for the principal purpose of personal or commercial benefit. The Freedom of Information Officer shall set the amount of the reduction, taking into consideration the amount of material requested and the cost of copying it."

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Provision of Copies and Access to Records

A public record that is the subject of an approved access request will be available for inspection or copying at the District's administrative office during regular business hours, unless other arrangements are made by the Freedom of Information Officer.

Many public records are immediately available from the District's website including, but not limited to, the process for requesting a public record. The Freedom of Information Officer shall direct a requester to the District's website if a requested record is available there. If the requester is unable to reasonably access the record online, he or she may resubmit the request for the record, stating his or her inability to reasonably access the record online, and the District shall make the requested record available for inspection and copying as otherwise provided in this policy.

Preserving Public Records

Public records, including email messages, shall be preserved and cataloged if: (1) they are evidence of the District's organization, function, policies, procedures, or activities, (2) they contain informational data appropriate for preservation, (3) their retention is required by State or federal law, or (4) they are subject to a retention request by the Board Attorney (e.g., a litigation hold), District auditor, or other individual authorized by the Board of Education or State or federal law to make such a request. Unless its retention is required as described in items numbered 3 or 4 above, a public record, as defined by the Illinois Local Records Act, may be destroyed when authorized by the Local Records Commission.

LEGAL REF.: 5 ILCS 140/, Illinois Freedom of Information Act.  
105 ILCS 5/10-16 and 5/24A-7.1.  
820 ILCS 40/11.  
820 ILCS 130/5.

CROSS REF.: 2:140 (Communications To and From the Board), 5:150 (Personnel Records),  
7:340 (Student Records)

ADOPTED:

Compare to current policy 2:250, or consider adding to your manual if not currently included.

**Commented [AP9]: OPTION 4:** Public bodies may adopt rules for the times and places where records will be made available (5 ILCS 140/3(h)). A board may amend this sentence to reflect other times and/or places where records will be made available. If so, please indicate on your Response Form or include district edits.  
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**Commented [AP10]: OPTION 5:** A district may reduce FOIA requests by posting records on its website. Many records are required to be web-posted, see 2:250-E3, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not have a website, change this sentence as follows: "Some public records are available for immediate access including a description of the process for requesting a public record, and a list of all types or categories of records under its control."  
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**Commented [AP11]:** The last two sentences in this paragraph are added in response to 5 ILCS 140/8.5, added by P.A. 98-1129.  
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