



**Board of Directors  
Professional  
Development  
Freedom of  
Information  
Act/Other**



**THE  
CHARTER  
COLLABORATIVE**

**SAGINAW VALLEY STATE UNIVERSITY**

*advancing public education through charter school partnerships*

# FREEDOM OF INFORMATION ACT

## General Information about the Act:

- The purpose of the Freedom of Information Act is to inform people so that they may fully participate in the democratic process.
- FOIA Requirements:
  - ✓ Must release requested public record that is not exempt under the statute.
  - ✓ A formal request must be made in writing.
  - ✓ A public record is “a writing prepared, owned, used in the possession of, or detained by a public body in the performance of an official function.”
  - ✓ A government organization is not required to create a new record or summarize a record.
  - ✓ PSA may charge a fee for duplication (including labor), mailing but there are limits in the Act.
  - ✓ Must respond within 5 business days but can extend to 10 if there is a reason for the delay and that is communicated to the requesting individual or organization.
  - ✓ Board designates the FOIA Coordinator to handle requests.
- You can contact the individual making the request by phone, but responses should be in writing.
- You are not allowed to inquire as to the reason for the request.

# FREEDOM OF INFORMATION ACT

## **Examples of items that can be requested as public records under FOIA include:**

- Financial documents such as budgets, checks and supporting documents, cash flows
- Personnel records and payroll information EXCEPT items considered an unwarranted invasion of a person's privacy such as social security numbers, income tax information etc. Personnel records that are subject to FIOA are evaluations and disciplinary documentation
- Emails and text messages even if on personal devices if related to school matters
- Directories of school staff that include names, personal phone numbers, etc. if such material is available at the school. If you do not have these types of directories, personal or unlisted phone numbers are not subject to FOIA

The cost for time and materials for FOIA requests are paid at the rate of the lowest paid hourly employee who can perform the service plus materials. However, a school can charge a fee only if its FOIA procedures and guidelines (including the itemized fee form) are posted on the school's website in compliance with the 2015 FOIA amendments. Hourly wage rates are determined in 15-minute increments.

# FREEDOM OF INFORMATION ACT

## Examples of items that can NOT be requested as public records under FOIA include:

- Student information such as names, phone numbers, and addresses protected under The Family Educational Rights and Privacy Act (FERPA)
- Individual student educational, testing, or transcript information
- Other information that is prohibited to be released by another federal law such as HIPAA
- Closed session minutes from board meetings
- Information from an ongoing investigation that could prevent an individual from receiving a fair trial or administrative proceeding (school discipline matter)
- Computer software specifications or information
- Appraisals of property
- Information pertaining to safety and security procedures, plans, security codes etc.

# FREEDOM OF INFORMATION ACT

## FOIA Tips:

- If you receive a written request, post the date received on the request.
- It is appropriate to contact the requesting party by telephone, but if you receive a written request, you should also send a written response.
- If you have any questions as to what can be or not be released, contact legal counsel.
- Be aware of the rules about charging fees as outlined in the law.
- If the nature of the request is such that a 5-day response is not possible, you can extend to 10 days by notifying the party in writing as to the reason for the delay.
- You do not have a right to ask why someone wants the information, but it is good to be mindful of possible agendas.

# CASE DISCUSSION

The school receives a phone call from someone requesting FOIA information. Specifically, they are looking for information from a teacher's personnel file including evaluations for the past three years. The school leader takes the phone call and gets the contact information from the individual making the request. The school leader also questions the individual as to what he is looking for?

With respect to the phone call, did the school leader handle the request properly?

How should the school leader handle this request moving forward and what role does the board play?

# LEGAL CONSIDERATIONS

- KNOW your school attorney. In certain cases, it may be necessary to consult with other attorneys depending on the expertise of your school attorney. This might also be done through legal counsel for your ESP.
  - ✓ Financial matters such as State Aid Anticipation Notes, Bonds, Loans, Leases
  - ✓ Workers Compensation
  - ✓ Personnel Issues such as hiring, discipline, termination, discrimination, sexual harassment
  - ✓ Special Education, Title IX,
- Typically, school attorneys work through administration and or in-conjunction with the school board.
- Remember that services do not have to be bid under State law. There is value in consistency of legal counsel unless there is a cost or service reason to seek out new counsel.
- It is a very good business practice that the appropriate attorney review and provide an opinion on any significant contractual agreement and that the board understand that opinion as part of its approval process.
- The best way to minimize the potential of successful legal action against organizations is on-going trainings for appropriate staff about topics such as discrimination, sexual harassment, hostile work environments AND
- Taking complaints with seriousness including appropriate investigations and actions in compliance with board policies and federal and state laws.

# OTHER

We are living in a time where all government is under scrutiny. Charter schools, in particular, are being more scrutinized. How do we make sure we keep out of the news?

- Listen to your experts! When in doubt, check it out – with legal counsel, SVSU, MDE, or as needed. You will save yourself more work, money, and headaches later.
- Be sure to comply with timelines and requirements from SVSU as you would with MDE requirements. These requirements are provided in calendar form, which is included your information.
- Take time to learn new laws. This can be done through the Michigan Association of School Boards or through your charter organizations.

# OTHER

- Make sure board policies are maintained and up-to-date, particularly given the ever-changing laws.
- Keep conversations during board meetings on-topic and avoid veering off into unrelated discussion, opinions, or comments.
- Be sure to DATE what are considered formal or legal documents. It is not unusual that we see documents in epicenter such as meeting notices, approved board minutes, playground checks, special meeting notices, board meeting cancellations, and safety drills that are signed by NOT dated. In some cases, they are not signed either but merely show the typed name of the individual responsible.
- Maintaining up-to-date and easy to navigate websites are important. On some websites it is difficult to find out who the board members are and locate the updated board meeting calendar and board minutes.

# CASE DISCUSSION

It is anticipated the June board meeting will have an item on the agenda to approve a lease agreement for 5 years on the school building. The school has 4 years remaining on its current SVSU authorization. The agreement was significantly revised regarding costs and responsibilities of the lessor and lessee. The cost is expected to increase 3% due to inflation. The current lease costs represent 12% of the expenditure budget.

What steps should the board members expect to occur as they prepare for the vote?

# Questions

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