

ADMINISTRATION: Administrative Operations

Public Information Act Requests: Schedule of Fees

I. PURPOSE

- A. TO ENSURE THAT BALTIMORE COUNTY PUBLIC SCHOOLS (BCPS) COMPLIES WITH the Maryland Public Information Act, *ANNOTATED CODE OF Maryland*, State Government ARTICLE [Code Ann., §10-621] SECTIONS 10-611 THROUGH 10-630 (ACT) WHEN RESPONDING TO REQUESTS FOR PUBLIC INFORMATION AND TO OUTLINE PROCEDURES FOR FILING SUCH REQUESTS WITH THE SCHOOL SYSTEM.
- B. REQUESTS FOR STUDENT RECORDS, INCLUDING STUDENT DIRECTORY INFORMATION, ARE NOT COVERED BY THIS RULE. (*SEE, SUPERINTENDENT’S RULE 5230, STUDENT RECORDS*)

II. BACKGROUND

- A. THE MARYLAND PUBLIC INFORMATION ACT permits a governmental agency to set reasonable fees for the search, preparation, and copying of public records. BCPS, AS THE CUSTODIAN OF THE GOVERNMENTAL RECORD, MUST PROVIDE ACCESS TO QUALIFYING RECORDS, UNLESS THE RECORD REQUESTED IS EXEMPTED FROM DISCLOSURE BY THE ACT.
- B. [As such,] This Schedule of Fees shall be followed by all BCPS EMPLOYEES AND OFFICES [Baltimore County Public Schools staff members] when responding to requests for public information presented under the ACT. [Maryland Public Information Act or the Federal Freedom of Information Act (5 U.S.C. §522). Requests for student records are not covered by this rule. As used in this rule, “applicant” refers to the person or entity requesting access to or copies of public records. Requests for public records must be directed, in writing, to the appropriate custodian of record.]

III. DEFINITIONS

- A. *ACT* - MEANS THE MARYLAND PUBLIC INFORMATION ACT, *ANNOTATED CODE OF MARYLAND*, STATE GOVERNMENT ARTICLE SECTIONS 10-611 THROUGH 10-630.

- B. *APPLICANT* - MEANS A PERSON OR ENTITY REQUESTING INSPECTION OR DISCLOSURE OF PUBLIC RECORDS.
- C. *SCHOOL SYSTEM* - MEANS THE BALTIMORE COUNTY PUBLIC SCHOOLS AND BOARD OF EDUCATION OF BALTIMORE COUNTY.
- D. *CUSTODIAN* - MEANS AN AUTHORIZED PERSON EMPLOYED BY THE SCHOOL SYSTEM HAVING PHYSICAL CUSTODY AND CONTROL OF PUBLIC RECORDS OF THE SCHOOL SYSTEM.
- E. *PUBLIC RECORDS* - MEANS ANY RECORDS MADE OR RECEIVED BY SCHOOL SYSTEM IN CONNECTION WITH THE TRANSACTION OF PUBLIC BUSINESS AND IS IN ANY FORM, INCLUDING, BUT NOT LIMITED TO, CORRESPONDENCE, A COMPUTERIZED RECORD, A CARD, A PHOTOGRAPH OR PHOTOSTAT, FILMS, MICROFILMS, A RECORDING, A TAPE, COMPUTERIZED RECORDS, MAPS, DRAWINGS, AND BOTH PRINTED AND ELECTRONICALLY STORED VERSIONS OF ELECTRONIC MAIL MESSAGES. A "PUBLIC RECORD" INCLUDES A DOCUMENT THAT LISTS THE SALARY OF AN EMPLOYEE OF THE SCHOOL SYSTEM.

IV. RIGHT TO ACCESS

- A. EXCEPT AS OTHERWISE PROVIDED BY LAW, A CUSTODIAN SHALL PERMIT A PERSON OR GOVERNMENTAL UNIT TO INSPECT ANY PUBLIC RECORD AT ANY REASONABLE TIME.
- B. THE ACT PROVIDES THAT EXISTING RECORDS, NOT OTHERWISE PRIVILEGED OR CONFIDENTIAL, WHICH ARE DEEMED PUBLIC ARE TO BE RELEASED. THERE IS NO OBLIGATION TO CREATE RECORDS TO SATISFY A PUBLIC INFORMATION REQUEST, AND THE SCHOOL SYSTEM WILL NOT DO SO.
- C. PRIVILEGED AND/OR CONFIDENTIAL INFORMATION IS NOT SUBJECT TO RELEASE. THIS INCLUDES, BUT IS NOT LIMITED TO SUCH DOCUMENTS AND RECORDS AS: STUDENT RECORDS WITH PERSONALLY IDENTIFYING INFORMATION; EMPLOYEE HOME ADDRESSES AND TELEPHONE NUMBERS; PERSONNEL EVALUATIONS AND EMPLOYMENT RECOMMENDATIONS; TRADE SECRETS; AND TEST QUESTIONS.

V. PROCEDURES

A. INITIATING WRITTEN REQUESTS

1. REQUESTS FOR PUBLIC RECORDS MADE UNDER THE ACT MUST BE IN WRITING AND SPECIFY THE DOCUMENTS WHICH ARE WITHIN THE CUSTODY OF THE SCHOOL SYSTEM THAT ARE BEING SOUGHT. IF THE APPLICANT CHOOSES TO MAKE A REQUEST VIA ELECTRONIC MAIL, THE APPLICANT ASSUMES THE RISK THAT SUCH TRANSMITTAL MAY BE COMPROMISED DUE TO UNANTICIPATED TECHNOLOGICAL ERRORS, WHICH MAY RENDER THE ELECTRONIC MAIL TRANSMITTAL UNDELIVERABLE.
2. ALL WRITTEN REQUESTS FOR PUBLIC RECORDS MUST INCLUDE THE APPLICANT'S FULL NAME, MAILING ADDRESS, AND TELEPHONE NUMBER.
3. THE WRITTEN REQUEST SHOULD BE ADDRESSED TO THE CUSTODIAN OF RECORD OF THE DOCUMENT SOUGHT, OR IF NOT KNOWN, ADDRESSED TO THE GENERAL COUNSEL, OFFICE OF LAW.

B. PROCESSING WRITTEN REQUESTS

1. ALL PUBLIC INFORMATION ACT REQUESTS RECEIVED BY THE SCHOOL SYSTEM SHOULD BE FORWARDED TO THE OFFICE OF LAW FOR REVIEW AND RESPONSE. THE GENERAL COUNSEL SHALL COORDINATE WITH THE APPROPRIATE STAFF TO PROVIDE THE REQUESTED INFORMATION.

C. RESEARCH, PREPARATION AND COMPILATION TIME

1. APPLICANTS WILL BE CHARGED FOR THE TIME INVOLVED IN RESEARCH, PREPARATION, AND COMPILATION OF DOCUMENTS RESPONSIVE TO REQUESTS FILED PURSUANT TO THE ACT.
 - a. AS PROVIDED BY THE ACT, NO CHARGE WILL BE ASSESSED FOR THE FIRST TWO HOURS THAT AN EMPLOYEE SPENDS TO RESPOND TO A REQUEST FOR PUBLIC RECORDS.
 - b. WHEN STAFF TIME TO SEARCH FOR REQUESTED PUBLIC RECORDS OR TO PREPARE PUBLIC RECORDS FOR INSPECTION AND COPYING EXCEEDS

TWO HOURS, THE CHARGE FOR SUCH SEARCH AND PREPARATION SHALL BE ASSESSED AS FOLLOWS:

- (1) CLERICAL TIME WILL BE ASSESSED AT A HECK OF A HIGH\$25.00 PER HOUR;
 - (2) PROFESSIONAL TIME WILL BE ASSESSED AT \$45.00 PER HOUR.
2. WHEN IT IS ANTICIPATED THAT A REQUEST WILL CONSUME MORE THAN TWO HOURS OF LABOR, BCPS WILL NOTIFY THE APPLICANT AND PROVIDE A COST ESTIMATE. THE APPLICANT MUST AGREE TO THE FEE AMOUNT BEFORE COMPILING OF DOCUMENTS BEGINS. BCPS WILL REQUIRE A DEPOSIT OF 75 PERCENT OF THE ESTIMATE BEFORE INITIATING ANY RESEARCH, PREPARATION, AND COMPILATION. IN ALL CASES, FEES MUST BE PAID IN FULL BEFORE ANY DOCUMENTS ARE DELIVERED OR ACCESS TO THE DOCUMENTS IS AUTHORIZED.
- D. TIME OF INSPECTION
1. WITH REASONABLE ADVANCE NOTICE, AN APPLICANT MAY INSPECT ANY PUBLIC RECORD THAT HE IS ENTITLED TO INSPECT DURING THE NORMAL WORKING HOURS OF THE SCHOOL SYSTEM. THE INSPECTION SHALL TAKE PLACE IN THE PRESENCE OF THE CUSTODIAN OR THE CUSTODIAN'S DESIGNEE.
- E. EMPLOYEE SALARIES
1. SALARIES OF SCHOOL SYSTEM EMPLOYEES ARE DEEMED PUBLIC INFORMATION UNDER THE ACT AND MAY BE PROVIDED UPON REQUEST WITHOUT THE NEED FOR A WRITTEN APPLICATION.
- F. GENERAL DOCUMENTS
1. ALL DOCUMENTS THAT MAY BE VIEWED ON THE SCHOOL SYSTEM'S WEB PAGE AT THE TIME OF THE REQUEST ARE DESIGNATED AS GENERAL DOCUMENTS. GENERAL DOCUMENTS WILL BE MADE AVAILABLE UPON REQUEST AND WITHOUT THE NEED FOR A WRITTEN APPLICATION UNDER THE ACT.
- G. TIME AND PLACE OF COPYING
1. THE CUSTODIAN MAY SET A REASONABLE TIME SCHEDULE FOR THE MAKING OF COPIES, PRINTOUTS,

AND PHOTOGRAPHS. THE COPY, PRINTOUT, OR PHOTOGRAPH SHALL BE MADE WHILE THE PUBLIC RECORD IS IN THE CUSTODY OF THE CUSTODIAN AND, WHENEVER PRACTICABLE, WHERE THE PUBLIC RECORD IS KEPT.

- H. COPYING AND OTHER FEES [I. Photocopies]
 - 1. DOCUMENTS OF 10 OR FEWER PAGES WILL BE COPIED FREE OF CHARGE.
 - 2. [A.] The fee for each copy made by a photocopying machine owned or operated by THE SCHOOL SYSTEM [the Baltimore County Public Schools] is 25 CENTS [¢] per page.
[No charge shall be made when the total fee does not exceed \$1.00.]
 - 3. [B.] IF COPYING MUST BE DONE AT A COMMERCIAL FACILITY FOR ANY REASON, THE APPLICANT WILL BE CHARGED THE ACTUAL FEE ASSESSED BY THAT FACILITY AND [The fee for each copy made other than by the Baltimore County Public Schools shall be based on the actual cost of reproduction. If the requested record cannot be copied on the premises of the Baltimore County Public Schools, the applicant requesting the information] shall be REQUIRED [directed] to reimburse directly the agency or facility making the copy.
 - 4. [C.] When an applicant requests that a copy of a public record be certified officially by the Superintendent or by a member of his administrative staff, an additional fee of \$1.00 per page shall be charged.
 - 5. AN APPLICANT WILL BE CHARGED \$2.00 EACH FOR A CD OR DVD.
 - 6. IF THE APPLICANT REQUESTS THAT COPIES BE MAILED OR DELIVERED TO THE APPLICANT, THE CUSTODIAN MAY CHARGE THE APPLICANT FOR THE COST OF POSTAGE OR DELIVERY TO THE APPLICANT.
- I. ELECTRONIC DOCUMENTS
 - 1. TO CONSERVE RESOURCES AND ENSURE THE INTEGRITY OF THE REQUESTED RECORDS, BCPS MAY ELECT TO DELIVER DOCUMENTS RESPONSIVE TO A REQUEST FOR INFORMATION IN AN ELECTRONIC FORMAT THAT CANNOT BE MANIPULATED OR RECONFIGURED.
- J. BCPS RESERVES THE RIGHT TO IMPOSE REASONABLE FEES FOR OTHER MATERIALS NOT LISTED HEREIN.

[II. Search and Preparation

- A. The Superintendent will not impose a charge for the first two hours that an employee spends to respond to a request for public records.
- B. When staff time to search for requested public records or to prepare public records for inspection and copying exceeds two hours, the charge for such search and preparation shall be assessed at a reasonable rate, to be no less than \$25.00 per hour for clerical staff time and no less than \$45 per hour for professional staff time.]

VI. [III.] Payment

- [A. Prior to copying a public record, staff members shall estimate the cost of reproduction and demand prepayment of the cost from the applicant.]
- A. [B.] Payment shall be remitted to the Baltimore County Public Schools by money order, [or] certified cashier’s check, OR BUSINESS CHECK; A PERSONAL CHECK WILL NOT BE ACCEPTED.
- B. UPON REQUEST, THE CUSTODIAN MAY WAIVE OR REDUCE ANY FEE CHARGED PURSUANT TO THIS RULE IF THE CUSTODIAN DETERMINES THAT THE WAIVER OR REDUCTION IS IN THE PUBLIC INTEREST OR AS AUTHORIZED BY THE SUPERINTENDENT. THE CUSTODIAN SHALL CONSIDER, AMONG OTHER THINGS, THE APPLICANT’S ABILITY TO PAY THE COST OR FEE. [A Waiver of this Schedule of fees may be granted, as provided by the Public Information Act.]

Legal References: *Annotated Code of Maryland*, State Government Article, §§10-611 TO -630 (*MARYLAND PUBLIC INFORMATION ACT*) [§10-611, *et seq.*]

[Related Policies: Board of Education Policy 5530, *Student Records*]

Rule
Approved: 11/06/01
REVISED: _____

Superintendent of Schools