

# Summary of Montabella Community Schools FOIA Procedures and Guidelines

## **How Do I submit a Freedom of Information Act (“FOIA”) request?**

- FOIA request to Montabella Community Schools must be submitted in writing. You may submit your request in person, by mail, by facsimile or by email. If you are submitting by mail send the attention of the FOIA coordinator at PO Box 349 Edmore, MI 48829. Facsimile requests should be sent to (989) 427-3828. Email request should be sent directly to the FOIA coordinator, Shelly Millis, Superintendent at [smillis@montabella.com](mailto:smillis@montabella.com). Although not required, to assist with timely processing of your request we suggest you include the word “FOIA” or “FOIA request” near the beginning of the request or in the subject line of the email.
- The request must contain a description of the record requested that is sufficient for the staff to be able to locate the record, if it exists.
- You do not need a specific form, however you may use the form located at [www.montabella.com](http://www.montabella.com)

## **When should I expect to receive a response to my request from Montabella Community Schools?**

We will respond to a FOIA request within five (5) business days or receiving it. The response will:

- Grant the request
- Issue a notice denying the request
- Grant the request in part, and issue a written notice denying the request in part.
- Inform you that the district needs an additional ten (10) business day to respond.
- Inform you that the public record requested is available at no charge on the district website.
- If the district is charging a fee for responding to the request, you will also receive a form itemizing the charges. You may also be required to submit a deposit.

## **When do I need to provide a fee deposit?**

- If the district determines through a good faith calculation that the total fee for processing the request exceeds \$50, it will require that you provide a deposit of 50% of the total estimated fee. In addition to requesting the deposit, the district will provide you with a non-binding best effort estimate of how long it will take to process the request upon receipt of your deposit.
- If you have not paid the district for copies of public records you received in a previously granted written request under the circumstances described below, Montabella Community Schools will require a deposit of 100% of the estimated processing fee. Montabella Community Schools will not undertake a search for the public records until the fee is paid. This only applies if:
  - A final fee for your prior request was not more than 105% of the estimated fee.

- The previously provided public records contain the information that you asked for and remain in the district's possession.
- You were able to obtain the previously requested records from the district, subject only to payment, within the timeframe the district estimated to provide the records.
- 90 days or more have passed since the district notified you that the previously requested public records were available.
- You are unable to show proof of prior payment.
- The district has calculated and provided you with an estimated detailed itemization of the basis for the fee deposit for the current request.
- You will not be required to pay the 100% fee referenced above, even if the appropriate circumstances exist, if any of the following apply:
  - You are able to show proof of prior payment in full.
  - You pay the prior invoice in full.
  - 365 days have passed since you made the request for which you did not submit full payment.

**How are FOIA processing fees calculated?**

- You will be charged the labor cost to search, examine, review, and delete or redact exempt information. The labor cost will be of the least expensive employee with the qualifications and knowledge to process the FOIA request.
- You will be charged for the cost of paper copies or duplication. Copies will be charged at \$0.05 per copy, a double sided copy will count as 2 copies. Color copies will be charged at a rate of \$0.15 per page.
- You will be charged for postage to mail or send the materials to you.

**Am I entitled to a reduction of the processing fees?**

- You are entitled to a waiver of the first \$20 of the processing fee if you submit an affidavit (i.e., a sworn statement) stating that you are indigent and receiving specific public assistance or, if you are not receiving public assistance, stating facts demonstrating your inability to pay because of indigency.
- You are not eligible, however, to receive this waiver if you have received discounted copies of public records from the district twice or more during the calendar year or if you are requesting information on behalf of other people who are offering or providing payment to you to make the request.
- Certain non-profit organizations, as described in the statute, may also qualify for the waiver of the processing fee.

**What happens if I do not agree with a denial or think Montabella Community Schools is charging as excessive fee?**

- You may appeal if the district denies your request in whole or in part. If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted, you may file an appeal with the Montabella School Board. This appeal must be in writing and must contain the word "appeal." It also must identify the reason or reasons for which you are seeking a reversal of the district's denial.
- You will receive a written response from the Montabella School Board within ten (10) business days after receipt of the appeal. The response will either reverse the disclosure denial, uphold the disclosure denial, or reverse in part and uphold in part. If the appeal requires the Montabella Schools Board to review voluminous amounts of materials, he/she may provide notification that he/she will take an additional ten (10) business days to respond.
- You may also file a civil action in Montcalm County Circuit Court. You may do so regardless of whether you filed an appeal with the Montabella School Board. A civil action must be started within One Hundred Eighty (180) days after the district's final determination denying your request. If you win in the circuit court, you will be awarded your reasonable attorneys' fees, costs and disbursements. If the court determines that the district acted arbitrarily and capriciously in refusing to disclose or provide the requested record, you will also receive damages in the amount of One Thousand and 00/100 (\$1,000.00) Dollars.
- You may also appeal if you believe you have been charged in excess of the allowable FOIA processing fee. To do so, you must first submit a written appeal for a fee reduction to the School Board President. This appeal also must be in writing and specifically include the word "appeal." You must also identify specifically how you believe the required fee exceeds the amount permitted by law.
- The School Board President will respond in writing within ten (10) business days after filing an appeal. The response will either be waiver of the fee, reduction of the fee with a written determination of the specific basis supporting the remaining fee, upholding the fee with a written determination of the specific basis for upholding the fee or issuance of a notice of the reasons why the School Board President needs up to ten (10) additional business days in which to respond to the appeal.
- You may appeal the School Board President's determination of any processing fee appeal within forty-five (45) days after receiving the notice. To do so, you must start a civil action in the Montcalm County Circuit Court requesting a fee reduction. If you win a civil action and receive a reduction of fifty percent (50%) or more of the total fee, the court may award all or an appropriate amount of your reasonable attorneys' fees, costs and disbursements. If the court decides that the district acted arbitrarily and capriciously by charging an excess fee, it may also award you punitive damages in the amount of Five Hundred and 00/100 (\$500.00) Dollars.