

# BULLETIN BOARD

## FOIA Request Changes: What You Need to Know

Last year, Michigan's Legislature passed a set of updates to our state's Freedom of Information Act (House Bill 4001). These updates became effective on July 1, 2015, and school districts were required to make some changes to their past practices in order to be eligible to charge a fee to information requestors to recover the district's costs generated by the compilation of public records.

### What does this mean for school board members?

For the most part, these changes to FOIA have little impact on school board members. School administrators and FOIA coordinators specifically process FOIA requests. Also, school boards are not required to change their board policies in order for their districts to comply with the revised statute—only administrative procedures are impacted.

### What is a public record? (MCL 15.232)

- A writing prepared, owned, used, in the possession of or retained by a public body in the performance of an official function from the time it is created.
- Public records are categorized either as exempt or nonexempt.
  - Exempt = public body is not compelled to release the record
  - Nonexempt = public body must release the record

### What information is exempt from disclosure?

- See MCL 15.243 for a statutory description of exempt materials.
- Common examples include information that is:
  - of a personal nature if disclosure would constitute a clearly unwarranted invasion of privacy.
  - protected from disclosure by statute, such as FERPA or HIPAA.
  - internal communications of an advisory nature that aren't purely factual and are preliminary to a policy being enacted or some sort of action being taken.
  - is subject to attorney-client privilege.

### What types of information must be disclosed?

- Public records that are not exempt.
  - In the past, this has included: board minutes, employee records, sports equipment purchase orders, emails between school district employees concerning discipline of a student, copies of RFPs and much more.



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