

Resolution 2011-12: 41
Communication Policy and FOIL Request Process

By Board Member

WHEREAS, the Rochester School Facilities Modernization Program Act ("the Act") established the Rochester Joint Schools Construction Board ("RJSCB"), a seven voting member board consisting of equal representation by the City of Rochester ("City") and the Rochester City School District ("District"), as well as a member jointly selected by the City and the District; and

WHEREAS, under the Act, the RJSCB has certain enumerated powers to act as agent for the District, the City, or both; and

WHEREAS, the RJSCB wishes to establish policies and procedures by which the leadership and staff of the RJSCB will provide reasonable assurance that the internal controls for the response to Freedom of Information Law (FOIL) requests by the RJSCB are effective and efficient; and

WHEREAS, consistent with these wishes, the RJSCB has drafted proposed revisions to its Communication Policy, an application form to be used by the public and the RJSCB for FOIL requests, and an information sheet to be posted on the RJSCB web site regarding FOIL requests, copies of which are all attached to this resolution; and

WHEREAS, at the MWBE and Services Procurement Committee (the "Committee") meeting on November 3, 2011, the Committee discussed and considered the revised Communication Policy, along with the RJSCB FOIL request application form and information sheet, and approved them for consideration by the full Board;

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby approves and adopts in all respects the revised Communication Policy, along with the RJSCB FOIL request application form and information sheet.

Second by Board Member

**Freedom of Information Law ("FOIL")
Rochester Joint Schools Construction Board (the "Board") Records Access**

Request to Access Board Records pursuant to FOIL

The Board only maintains records relating to its own operations and programming (including, without limitation, the Facilities Modernization Program), and does not maintain records of the City of Rochester, the Rochester City School District, or any other agency.

FOIL requests must be submitted in writing to the Records Access either by mail, email or fax at:

- If by mail: Records Access Officer, Rochester Joint Schools Construction Board
175 Martin Street, Rochester, NY 14605
- If by email: trenauto@aol.com; A FOIL request submitted by email will be responded to by email.
- If by fax: (585) [insert fax number]

FOIL requests should include the following information to ensure efficient processing:

- Requester's name, address, and telephone number. This information is to be provided so that the Records Access Officer may contact you with any questions and/or mail the requested materials.
- A reasonable description of the records sought, containing specific information which will allow the Records Access Officer to identify and locate the record.
- The requester's preference to inspect/review, copy records or both.
- A FOIL request for a list of private names and addresses or unredacted documents containing such names and addresses must be accompanied by a completed Affidavit of Purpose [insert link].

The Board recommends using the Board's FOIL request form: [insert link].

Records will be available to copy and/or inspect by appointment only at the Board's office located at 175 Martin Street, Rochester, NY 14605 during the Board's normal business hours of [8:30 a.m. to 4:30 p.m.] on Monday through Friday, subject to holidays.

Record Copy Fees

Fees for copies of records apply, and are as follows:

- Twenty-five cents per photocopy for pages up to 9"x14"; or
- The actual cost of reproducing the record (except when a different fee is prescribed by statute).

Response to FOIL Requests

The Board will respond to a FOIL request within five business days after receiving a FOIL request for a record reasonably described and will either:

- Approve the FOIL request and make the record available;
- Deny in whole or in part the FOIL request in writing, and include the basis for such denial;
- Furnish a written acknowledgement of receipt of the FOIL request and a statement of the approximate date (reasonable under the circumstances) when the FOIL request will be granted or denied as determined in accordance with Section 89(5) of the New York Public Officers Law;
- Give notice of an extension of time needed to fulfill the FOIL request and a date certain if the Board reasonably determines that it cannot fulfill the FOIL request within twenty business days from the date of the acknowledgement of receipt of the FOIL request;
- Certify that the requested materials are not maintained by the Board and refer the requester to the appropriate agency, if known; or
- Certify that after a diligent search, the requested records cannot be located.

Appeal of a Denial

- If the requester is denied access to a record of the Board, the requester may file a written appeal within 30 days of receipt of denial with the Appeals Officer, the Vice Chair of the Board. Appeal instructions will be included in the denial letter. Within ten business days of receiving such appeal, the Appeals Officer will either affirm the denial fully explaining in writing the reasons for further denial or overturn the denial in whole or in part and provide access to the records sought.

ROCHESTER JOINT SCHOOLS CONSTRUCTION BOARD

APPLICATION FOR ACCESS TO RECORDS

(See Instructions)

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• TO THE ROCHESTER JOINT SCHOOLS CONSTRUCTION BOARD (THE "BOARD")

Are you requesting a list of private names and addresses or unredacted documents containing such names and addresses?
 Yes* No

*If you answered yes, you must complete the Affidavit of Purpose before your request will be considered.

I hereby apply to:

- Inspect the following records under the provisions of the Freedom of Information Law. If after inspection, should I desire copies of all or part of the records inspected, I will identify the records to be copied and hereby offer to promptly pay the established fees. (Actual cost of reproduction, statutorily required fee, or 25¢ per 9"x14" page as applicable).
- Receive copies of the following records under the provisions of the Freedom of Information Law:

Contact me if cost will exceed \$ _____

Name (Print or type) _____ Telephone No. _____

Attention of: _____ E-Mail Address _____

Mailing Address _____

Signature _____ Date _____

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[For Authority Use Only]

**• TO THE APPLICANT
Records Provided**

- The reproduction costs for the records provided are \$ _____
- Records have been (partially, fully) provided. (If not provided, date when records are expected to be fully provided: _____)

Records Not Available

- The Records Access Officer hereby certifies that the records cannot be found after diligent search
- The Records Access Officer hereby certifies that the Board is not the custodian for records indicated

Records Denied

Access to the records – or part of the records – has been denied to the applicant for the reasons(s) checked below:

- | | |
|---|--|
| <ul style="list-style-type: none"> <input type="checkbox"/> Specifically exempt under federal or state statute <input type="checkbox"/> Unwarranted invasion of personal privacy <input type="checkbox"/> Would impair present or imminent contract awards or collective bargaining negotiations <input type="checkbox"/> Are examination questions or answers <input type="checkbox"/> Are inter-agency or intra-agency materials that are not: <ul style="list-style-type: none"> • statistical or factual tabulations or data • instructions to staff that affect the public • final agency policy or determinations; or • external audits, including but not limited to audits performed by the NYS Comptroller and the federal government <input type="checkbox"/> Are trade secrets or would cause substantial injury to a commercial enterprise | <ul style="list-style-type: none"> <input type="checkbox"/> Could endanger the life of any person <input type="checkbox"/> Are compiled for law enforcement purposes and if disclosed would: <ul style="list-style-type: none"> • interfere with law enforcement investigations or judicial proceedings • deprive a person of the right to a fair trial or impartial adjudication • identify a confidential source or disclose confidential information relating to a criminal investigation, or • reveal criminal investigative techniques or procedures <input type="checkbox"/> Would jeopardize an agency's capacity to guarantee the security of its information technology assets (such assets encompassing both electronic information systems and infrastructures) |
|---|--|

Identification of records withheld (attach listing if additional space is required) and/or explanation if appropriate:

Signature of Records Access Officer _____ Title _____ Date _____

Instructions for Completing the Affidavit of Purpose

- The Rochester Joint Schools Construction Board (the "Board") takes personal privacy very seriously. Accordingly, if your Freedom of Information Law request includes either:
 - (i) list(s) of names and addresses of a natural person; or
 - (ii) record(s) containing names and addresses of a natural person,

then a signed and notarized Affidavit of Purpose must be received by the Board before your request can be granted.

However, if your FOIL request does not involve either (i) or (ii), then completion of the Affidavit of Purpose is not required.

- Please submit the signed and notarized Affidavit of Purpose to the Board either by:

Email: trenauto@aol.com

Mail: Records Access Officer
Rochester Joint Schools Construction Board
175 Martin Street
Rochester, NY 14605

Thank you for your courtesy.

ROCHESTER JOINT SCHOOLS CONSTRUCTION BOARD
AFFIDAVIT OF PURPOSE

STATE OF NEW YORK)
COUNTY OF _____) SS:

_____, being duly sworn, deposes and says the following is true:

1. I am submitting a Freedom of Information Law request ("FOIL request") to the Rochester Joint Schools Construction Board (the "Board") pursuant to Article 6 of the New York State Public Officers Law.

2. My FOIL request involves a list of names of members of the public and their home addresses, and/or records containing such names and home addresses that could be used to compile such a list.

3. I understand that pursuant to FOIL, the Board has the right to deny my FOIL request if it involves the sale or release of a list of names and addresses of members of the public and such list would be used for commercial or fund-raising purposes. *See New York Public Officers Law § 89(2)(b)(iii)(2011)*. Further, under Section 89(3)(a) of the New York Public Officers Law, the Board can require me to provide a written certificate that I will not use such list(s) of names and addresses for solicitation or fund-raising purposes.

4. I understand that pursuant to FOIL, the Board also has the right to deny my FOIL request even if I do not request a list of names and addresses per se if my request for records would be used to develop a list of names and addresses to be used for commercial or fundraising purpose. *See Scott, Sardano & Pomeranz v. Records Access Officer of Syracuse*, 65 N.Y.2d 294, 491 N.Y.S.2d 289 (1985).

5. I will not use the requested (i) list of names and addresses of members of the public and/or (ii) records containing such names and addresses, for commercial or fundraising purposes or to develop a list of names and addresses of members of the public to be used for commercial or fundraising purposes.

SIGNATURE: _____

NAME: _____

SWORN TO BEFORE ME THIS
__ DAY OF ____, 201__