FREEDOM OF INFORMATION ACT (FOIA)
PROCEDURES AND GUIDELINES

Written Requests

1. A request desiring to inspect or receive a copy of a public record shall be made in writing addressed to the Freedom of Information Coordinator. All requests must be in written form and descriptive enough to locate the specific record. A request from a person, other than an individual who qualifies as indigent, must include the requesting person's complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address, and contact information of the person's agent who is an individual. An address must be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. Such request needs to be flagged, dated, and immediately given to the FOIA Coordinator. The School Leader or his/her designee must forward the FOIA request to the Chief Compliance Officer and/or Compliance Department immediately upon receipt.

2. Written requests made by fax, e-mail or other electronic transmissions are considered received one business day after the electronic submission is made. Requests that are received by e-mail and are delivered to the Academy's spam or junk folder are considered received one day after the Academy becomes aware of the written request. The Academy will note in its records the time the written request was delivered to the spam or junk folder and the time the Academy became aware of the written request.

3. A written request received directly by a staff member working at the Academy other than the FOIA Coordinator shall be forwarded promptly to the FOIA Coordinator. The date the staff member receives the request shall be considered the date the request is received by the Academy for purposes of determining when the response is due.

4. The FOIA Coordinator is not required to respond to oral requests for public records, but may do so for routine requests that can be granted immediately.

5. After receiving a FOIA request, a response must occur within five (5) business days of receipt.

6. Based on the received written request, a person or entity has the right to inspect, copy, or receive copies of the requested public records unless the requested records are exempt from disclosure under the FOIA law. If the exempt status is questioned, legal counsel should be consulted. New public records, compilations, summaries and/or reports shall not be created in response to a FOIA request.

7. The requestor may stipulate that that public record be provided on non-paper physical media, electronically mailed, or otherwise electronically provided in lieu of paper copies. Such stipulation must be within the technological capabilities of the Academy.

8. If the requested public record may be obtained on the Academy's website, the FOIA Coordinator shall notify the requestor in writing of such availability and provide the direct internet address or link to obtain the public record. If, after receiving such written notification from the FOIA Coordinator, the requestor notifies the Academy that he/she continues to want the Academy to provide a copy of the available public record, in any format, the Academy shall process such request and may impose additional labor costs.

9. The Academy shall post the procedures and guidelines and the written summary to implement FOIA on its website. Free copies of this summary will also be publicly available to visitors to the Academy and provided with the Academy's response to a written request. If the Academy posts the procedures and guidelines and written

summary on its website, it may include the website link to the documents in lieu of providing paper copies in its response to a written request.

Fees

1. In calculating the cost of labor incurred in the **search, locating, examination, review, separation and deletion** of exempt information from nonexempt information, the Academy shall not charge more than the hourly wage of the lowest paid staff member capable of retrieving the information necessary to comply with a request regardless if that person actually performs the labor. Labor costs shall be estimated and charged in increments of 15 minutes or more with all partial increments rounded down.

2. If the Academy does not employ a person capable of separating exempt from non-exempt information, as determined by the FOIA Coordinator, it may use an outside contractor. The Academy shall note the name of the firm or contractor on the itemization form. The cost of the contractor's labor, including the necessary review directly associated with separating and deleting exempt information from non-exempt information, shall not exceed an amount equal six (6) times the state minimum hourly wage rate.

3. The Academy will not charge for labor directly associated with redaction if it knows or has reason to know that it previously redacted the record and still has the redacted version in its possession.

4. The cost of labor directly associated with the **duplication or publication** shall not be more than the hourly wage of the lowest paid staff member capable of retrieving the information necessary to comply with a request regardless if that person actually performs the labor. Labor costs for duplication and publication shall be estimated and charged in increments at the Academy's discretion; however, all partial increments shall be rounded down. Duplication or publication includes making paper copies, making digital copies, or transferring digital public records to be given to the requestor on non-paper physical media or through the Internet or other electronic mean as stipulated by the requestor.

5. When calculating labor costs as described above, the Academy may also add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits. If the Academy does so, it will clearly note the percentage multiplier used to account for benefits in the itemization form. Subject to the 50% limitation, the Academy shall not charge more than the actual cost of fringe benefits, and overtime wages shall not be used in calculating the cost of fringe benefits. The Academy may charge 100% of fringe benefit costs to the applicable labor charge if a requestor is notified in writing that the public records are available on the Academy's website and the requestor continues to request that the Academy provide a copy, in any format, of the available public record.

6. Overtime costs shall not be included in the calculation of labor costs unless the requestor specifically approves the use of overtime in writing, and overtime charges are clearly noted in the itemization form.

7. The fee for mailing the public records will be the least expensive form of postal delivery. The Academy shall not charge more for expedited or insurance unless specifically stipulated by the requestor.

8. If the fee authorized under this section exceeds $50.00, the Academy may require a 50% good faith deposit of the costs prior to complying with the FOIA request. A request for a good faith deposit shall include a detailed itemization of the fee the Academy estimates or charges. A request for a good faith deposit shall also include a best efforts estimate regarding the time frame it will take to comply in providing the public records to the requestor. The Academy may require a 100% deposit from a requestor who has not previously paid a fulfilled FOIA request.

10. The first $20.00 of the fee shall be waived for:
    a. A person who is entitled to the information under the FOIA and submits an affidavit stating that he/she is indigent and receiving public assistance or presents facts showing inability to pay because of indigence. If

the individual is ineligible for a discount, the Academy will inform the individual of the specific reason for ineligibility in the written response. The right to financial assistance will not apply where:

- the individual has received the discounted copies of the public records twice during the calendar year; or
- The individual requests the information in conjunction with outside parties who are offering or providing payment to the individual to make the request.

b. A non-profit organization designated by the State to carry out activities under Subtitle C of The Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and The Protection and Advocacy For Individuals with Mental Illness Act, Public Law 99-319, or their successors provided that following requirements are met:

- The request is made directly on behalf of the organization or its clients;
- The request is made for a reason consistent with the mission and provisions of these law; and
- The request is accompanied by documentation of its designation by the State, if requested by the Academy.

11. The current cost per sheet cannot exceed 10¢ for copies made on 8 ½ x 11 or 8 ½ x 14 paper. The Academy must use the most economical means for making copies of records, including using double sided printing.

12. A fee will not be charged to the requestor until the fees have accrued to an amount over $10.00, inclusive of labor costs, duplication and mailing.

13. If the Academy fails to respond to a written request in a timely manner, the Academy must reduce the charges for labor costs otherwise permitted by 5% for each day that the Academy exceeds the time permitted for the response with a maximum of 50% reduction if

    a. The late response was willful or intentional; and
    b. The written request included language that indicated it was a request for information or submitted under FOIA.

14. The Academy will use a standard form for detailed itemization of any fee amount in its responses to all FOIA written requests.

15. If the Academy does not receive a required deposit within 45 days after the requesting person receives notice that a deposit is required, and the person has not appealed the deposit amount, the request shall be considered abandoned and the public body is no longer required to fulfill the request. Notice that a deposit is required must include the due date, which is 48 days after the notice is sent.

Response

1. There are four (4) types of responses:
   a. Grant the request
   b. Deny the request
   c. Grant in part/deny in part; or
   d. Issue an extension for not more than ten (10) business days

   A failure to respond to a written request constitutes a denial.

   The Academy may require the requestor to sign an affidavit stating that the directory information will not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

2. FORMAT REQUIREMENTS: A FOIA response letter is the administrative record on how a FOIA request was processed Accordingly, ALL FOIA response letters must be accurate and complete and contain the following information:
   a. Dates: Ensure that the date of the request and the date the request was received are both addressed in the response letter.
   b. Subject matter: Repeat what the requestor is seeking.
   c. Modifications: Reference any communications (verbal or written) where the requestor has refined or modified the request.
   d. Fees: If fees are necessary, such as an extensive request, the response should include the amount of fees and how they are calculated.

   The Academy will include with the response a copy of the Academy's procedures and guidelines and written public summary of the FOIA or a link to the document on the Academy's website.

3. EXTENSION: Issuing a notice of extension provides an additional ten days before a response is required. A notice of extension needs to specify the reason(s) for the extension and the date by which a decision will be made.

4. DENIAL: A written response denying a request, in whole or in part, should also include the following:
   a. EXPLANATION:
      - An explanation that the public record is exempt from disclosure. It is imperative that all exemptions claimed be cited. It is also advisable to be as explanative as possible when claiming an exemption so that the requestor understands what kind of information has been withheld. It is best to get a knowledgeable attorney's opinion on the validity of an exemption prior to denying a FOIA request.
        Possible EXEMPTIONS include:
        - Information that would constitute a clearly unwarranted invasion of an individual's privacy.
        - Records or information specifically exempted from disclosure by legislation (such as FERPA).
        - Information or records subject to a privilege recognized by statute or court rule.
      - Alternatively, an explanation that the public record does not exist under the name given by the requestor or by any other name reasonably known to the Academy.
      - Or in the case of a "no record" response, advise the requestor of where the search was conducted and a description of your policy regarding records disposal.
      - A description of a public record or information on a public record that is separated or deleted if such separation or deletion is made.

   b. APPLEAL RIGHTS: Appeal rights with the Board of Directors or ability to seek judicial review of the denial under the FOIA should be provided to any requestor who has been denied information.
   c. ATTORNEY FEES: Notice of the right to receive attorneys' fees and damages under the FOIA if judicial review determines disclosure was warranted.
   d. SIGNATURE: The FOIA Coordinator must sign the written denial.

Appeals

Fee Dispute Appeal

If the requestor believes the fee estimated or charged exceeds the amount permitted under this procedures and guidelines and under Section 4 of the FOIA the requestor may:

1. Submit to the President of the Academy's Board of Directors a written appeal for a fee reduction that states the word "appeal" and identifies how the required fee exceeds the amount permitted under the Academy's procedures and guidelines and Section 4 of the FOIA. The written appeal is not considered to have been received until the first regularly scheduled meeting of the Board of Directors following the submission of the written appeal.

2. Within ten (10) business days after receiving a written appeal, the Board shall do one of the following:
   a. Waive the fee.
   b. Reduce the fee and issue a written determination to the requestor indicating the specific basis that supports the remaining fee. The determination shall include a certification from the Board that the statements in the determination are accurate and that the reduced fee complies with Academy procedures and guidelines and Section 4 of the FOIA.
   c. Uphold the fee and issue a written determination to the requestor indicating the specific basis under Section 4 of the FOIA that support the required fee. The determination shall include a certification from the Board that the statements in the determination are accurate and that the reduced fee complies with Academy procedures and guidelines and Section 4 of the FOIA.
   d. Issue a notice extending, for not more than ten (10) business days, the period during which the Board shall respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The Board shall not issue more than one notice of extension for particular written appeal.

3. If the requestor does not agree with the Board's determination, the requestor may commence a civil action in circuit court in the county where the Academy is located within 45 days of receiving the Board's determination.

Denial of Written Request

If the Academy makes the decision to deny all or a portion of the request, the requestor may either:

1. Submit to the President of the Academy's Board of Directors a written appeal that states the word "appeal" and identifying the reasons for a reversal of the denial. The written appeal is not considered to have been received until the first regularly scheduled meeting of the Board of Directors following the submission of the written appeal.

   The Board shall do the following within ten (10) business days after receiving the written appeal:

   a. Reverse the denial.
   b. Issue a written notice to the appellant upholding the denial.
   c. Reverse the denial in part and issue a written notice to the appellant upholding the denial in part.
   d. Under unusual circumstances, issue a notice extending, for not more than ten (10) business days, the period during which the Board shall respond to the written appeal. The Board shall not issue more than one (1) notice of extension.

   If the head of the public body fails to respond to the written appeal, or if the head of the public body upholds all or part of the disclosure denial, the appellant may seek judicial review under Section 10 of the FOIA.

2. Commence a civil action in the circuit court to compel the Academy to disclose the public records within 180 days after the Academy's final determination to deny the request. If the requestor prevails, the court may award reasonable attorney fees, costs and damages. The proper venue for and action against the Academy is the circuit court for the county in which the public record or the Academy is located.