

FREEDOM OF INFORMATION ACT
GUIDELINES, PROCEDURES AND WRITTEN PUBLIC SUMMARY

The following information provides guidelines, procedures and written summary for the process to obtain public records under the Freedom of Information Act (FOIA).

I. GUIDELINES

A. PURPOSE

Macomb Intermediate School District (the “District”) is a public body required by law to provide public records to persons requesting public records unless those records are exempt from public disclosure by the Freedom of Information Act (FOIA) or some other statute.

The guidelines/procedures contained in this document are intended to provide consistency of practice in the release of public records and in the fees charged for the cost of processing a request for public records.

B. SCOPE

To provide a request process and response procedure for Freedom of Information Act (FOIA) requests.

C. DEFINITIONS:

Fees means the amount the District charges to a FOIA Requester in order to process the FOIA request.

FOIA Coordinator means the Chief Administrative Officer or the person designated by the Chief Administrative Officer with the primary responsibility to accept and process requests for public records.

FOIA Request means a written request submitted to the District that sufficiently describes a public record.

Person means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

Public Record means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function. Public record does not include computer software. The FOIA separates public records into the following 2 classes:

1. Those that are exempt from disclosure under Section 13.
2. Public records that are not exempt from disclosure under Section 13 and which are subject to disclosure under the FOIA.

Requester means the person (see definition of person) making the request for documents under the FOIA.

Writing means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drum, or other means of recording or retaining meaningful content. A writing is also information contained in a database or electronic records.

D. GENERAL INFORMATION:

1. A public record that is a writing prepared, owned, used, in the possession of, or retained by the District in the performance of an official function is subject to FOIA, for which a disclosure determination is made by the FOIA Coordinator.
2. A FOIA request must be submitted in writing to the District. A person may submit a FOIA request to the District in person, via mail, via facsimile, or via electronic mail. In most cases, a written request for a document will be considered a FOIA request, regardless of whether the FOIA is mentioned. The most direct way for a person to submit a written FOIA request is to submit the request to the District's FOIA coordinator:

ATTENTION: FOIA COORDINATOR
MACOMB INTERMEDIATE SCHOOL DISTRICT
44001 GARFIELD ROAD
CLINTON TOWNSHIP, MI 48038-1100

E. DISTRICT FOIA COORDINATOR:

1. Pursuant to Section 6 of the FOIA, the FOIA Coordinator for the District shall be the Superintendent or designee.

The FOIA Coordinator is responsible for the following:

- FOIA requests received by the District.
 - Responding to questions concerning FOIA requests.
2. All persons designated to process FOIA requests shall comply with the following:
 - Maintain a copy of all FOIA requests received and the completed Responses to Request for Public Records. These documents shall be retained for no less than one year, in accordance with Section 3(2) of the FOIA.

F. FEES:

1. Under certain circumstances, the District may charge a fee to process a FOIA Request. A fee will not be charged for the cost of search, examination, review, and redaction unless failure to charge a fee would result in unreasonably high costs to the District because of the nature of the request in the particular instance.
2. A public record may be made and copies furnished without charge for the first \$20.00 by the Requester furnishing an affidavit stating that the individual is indigent and receiving specific public assistance, or if not receiving public assistance, stating facts showing

inability to pay the cost because of indigency. If denied, the District shall furnish a written response specifying the reason for ineligibility. A Requester shall only be permitted to obtain records twice during a calendar year under such circumstances. A Requester may also be required to make a statement in the affidavit that the request is not being made in conjunction with an outside party. Additionally, a non-profit organization designated by the state to carry out activities relating to the developmental disabilities assistance and protection and advocacy of persons for mental illness may be eligible as described in the FOIA.

Questions concerning the waiver of fees should be directed to the FOIA Coordinator.

3. In cases where a fee will be charged, the District's response will state the amount assessed and indicate that the documents will be provided after payment is received in full. If the amount assessed will exceed \$50.00, exclusive of any waived amounts, a 50 percent deposit may be required before processing of the request begins. Upon completion of processing, the balance must be paid before the documents are delivered to the Requester.
4. The District may include charges for the following when calculating the estimated and/or actual fee:
 - a. Category A: Labor costs directly associated with the necessary searching for, locating, and examining of public records.
 1. Will not exceed the hourly wage of the lowest paid employee capable of performing the task.
 2. Will be calculated in increments of 15 minutes or more, with partial time rounded down.
 3. May include up to 50% of the applicable labor charge for fringe benefits.
 - b. Category B: Labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information.
 - i. If performed by a District employee, these labor costs will not exceed the hourly wage of the lowest paid employee capable of performing the tasks.
 - ii. Will include the name of the contracted laborer or firm performing Category B labor if Category B labor costs are incurred through contracting with a third party to perform the labor. Contracted labor may not exceed 6 times the State minimum wage.
 - iii. Will be charged in 15 minute increments or more, with partial time rounded down.
 - iv. May include up to 50% of the applicable labor charge for fringe benefits. Itemization must note percentage multiplier used.
 - c. Category C: (for public records provided on nonpaper physical media) Actual and most reasonably economical cost of the computer disks, computer tapes, or other digital or similar media.
 - i. The Requester may stipulate that the records will be on non-paper physical media, emailed, or otherwise electronically provided.

- ii. Only applies if the District has the technological capability necessary to provide records in the requested electronic format.
- d. Category D: (for paper copies of public records) Actual total incremental cost of necessary duplication or publication, not including labor.
 - i. The District will only charge a maximum of \$0.10 per sheet for 8 ½ by 11 inch or 8 ½ by 14 inch paper and will only charge the actual cost of all other types of paper.
 - ii. The District will use most economical means available, including double sided printing.
- e. Category E: Labor costs directly as with duplication or publication, including making paper copies, making digital copies, or transferring digital public records.
 - i. Will not exceed the hourly wage of the lowest paid employee capable of performing the task.
 - ii. Will be charged in 15 minute increments or more, with partial time rounded down.
 - iii. May add up to 50% of the applicable labor charge for fringe benefits.
- f. Category F: Actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner.
 - i. May only charge for expedited shipping or insurance if stipulated by the requesting person.
 - ii. May charge for the least expensive form of postal delivery confirmation.

G. FEE DEPOSITS:

1. If a fee will exceed \$50.00, exclusive of any waived amounts, a 50 percent deposit may be required before processing of the request begins. Upon completion of processing, the balance must be paid before the documents are delivered to the Requester.
2. If a deposit is required, the District will also include a non-binding, best efforts estimate regarding the time frame it will take the District to provide the public records to the Requester.
3. The District may require a deposit of 100% from a Requester who has not paid a previous FOIA fee in full to the District before the District begins another search for that Requester. The District will only require this 100% deposit if all of the following apply:
 - a. The previous final fee was not more than 105% of estimated fee.
 - b. Records made available contained the information being sought in prior request and are still in the District's possession.
 - c. Public Records were made available to the Requester subject to payment within the time frame estimate
 - d. Ninety (90) days have passed since written notification to the Requester that the records were available.
 - e. The Requester is unable to show proof of prior payment to the District.

4. The District will no longer require an increased deposit due to failure to pay if any of the following apply:
 - a. The Requester can show proof of prior payment in full.
 - b. The District is subsequently paid in full.
 - c. Three hundred sixty-five (365) days have passed since the Requester made the written request for which full payment was not remitted.

II. PROCEDURE:

- A. A written FOIA request received by a District employee shall be immediately forwarded by fax transmittal, email (including scanned copy of request) or hand delivery to the FOIA Coordinator. The FOIA Coordinator shall respond in writing to the request within five business days after the District received the request.
 1. The FOIA Coordinator's written response may:
 - a. Invoke the District's right to take a ten business day extension to provide a written response to the FOIA request. Such an extension will notify the Requester the reason for why the ten-business day extension is being taken and the new date for response.
 - b. Require a 50% deposit based upon a good faith estimate of the fee required to process the FOIA request as described above.
 2. Upon expiration of extension and/or receipt of deposit, if applicable, the District's written response will:
 - a. Grant, deny, or grant in part and deny in part, the FOIA Request. Any denial will explain the basis for the denial and, if applicable, provide the applicable exemption category or categories.
 - b. Include a link to the District's website where the District's FOIA guidelines, procedure and written summary for the public are posted.
 3. A FOIA Request received by the District via facsimile or electronic mail shall be considered received by the District on the business day following the date of transmission.
 4. A FOIA Request sent via electronic mail and delivered to the District spam or junk mail folder is not considered received by the District until one day after the District first becomes aware of the request. The District must note in its records both the time a FOIA Request is delivered to its spam or junk mail folder and the time the District first becomes aware of the FOIA Request.
- B. Where a written request is received which does not sufficiently describe the public record requested so as to enable the FOIA Coordinator to locate same, the FOIA Coordinator may send notice to the person requesting a clarification of the request. Such notice, if sent, shall not be interpreted as a denial of the request for purposes of the FOIA.
- C. The FOIA Coordinator shall review the request and determine whether the District possesses nonexempt records responsive to the request. The District shall provide existing, nonexempt public records under the name given by the Requester or by another name reasonably known to the District. The FOIA does not require the District to make a compilation, summary or report or information nor does it require the District to create a new public record.

The FOIA Coordinator shall be responsible for obtaining the requested documents that are public records and are in the District's possession. If the District does not have the document requested, the

FOIA Coordinator is not required to obtain it from outside the District, including from another agency or an entity under contract with the District, in order to comply with the request.

- D. The FOIA Coordinator shall carefully review the documents obtained so that information and documents exempt from disclosure are not provided. Only those exemptions set forth in the FOIA shall be used. Exemption(s) shall be noted when responding to the FOIA request, and an explanation as to what was exempted shall also be stated.
- E. If only a portion of a document is exempt, the exempt portion shall be redacted and the nonexempt portion of the document shall be disclosed. The FOIA Coordinator shall ensure exempt portions of the document are not legible on the copy provided.
- F. **EXEMPTIONS UNDER FOIA:** The exemptions to disclosure are found at Section 13 of the FOIA. The exemptions allowed by the FOIA are expressed in general language, which must be applied to the specific document requested. While it is not possible to list all exempt information or documents, the following are some of the exemptions which are most frequently used and examples of the items to which the exemptions may apply:
 - 1. Clearly unwarranted invasion of an individual's privacy. Exemption 13(1)(a).
Examples – Home addresses and home telephone numbers, personal cellular phone numbers.
 - 2. Information which is preliminary to a final agency decision unless it is purely factual and the public interest warrants disclosure. Exemption 13(1)(m).
Examples – Interview notes, investigations prior to completion. (Note: Portions or all of an investigation may be exempt after completion for other reasons, e.g., privacy or security concerns.)
 - 3. The FOIA also permits exemption of documents or information specifically exempted from disclosure by another statute. Exemption 13(1)(d).
Examples – Documents and/or information protected under the Mental Health Code.
 - 4. Information which is subject to a specific privilege (e.g., attorney-client, doctor- patient, psychologist-patient), except if the Requester has a signed release from the client or patient that is Health Insurance Portability and Accountability Act compliant. Exemption 13(1)(g) & (h).
 - 5. Information or records that would disclose the Social Security number of any individual. Exemption 13(1)(w).
- G. **INSPECTION:** Upon request, a person will be provided with a reasonable opportunity for inspection of non-exempt public documents during normal business hours. However, in the interest of protecting original records from loss, unauthorized alteration, mutilation or destruction, a copy of the public record will be made available for inspection and the requesting party shall be charged copying fees as outlined in Category D. Persons with special needs should contact the FOIA Coordinator so that arrangements for special needs or reasonable facilities are prepared.
- H. **APPEAL:** A Requester whose request has been denied in full or in part, or who believes the fee the District has required exceeds the amount permitted by law, may appeal the denial or fee to the MISD Board of Education.

The Requester shall be advised by the FOIA Coordinator of the right to file a written appeal to the MISD Board of education. The appeal shall be considered as delivered on the date of the next regular MISD Board meeting, following receipt of the appeal. The appeal must clearly be marked with the work "appeal" and identify the reason or reasons for appeal.

Where a written appeal is received by the District in accordance with the FOIA, the MISD Board shall either:

1. place the appeal on the agenda for the next regularly scheduled meeting where unusual circumstances are found to exist; or
2. consider and decide the appeal at the meeting at which it was received; or
3. direct that a special meeting be held to consider whether the appeal should be scheduled. In its consideration of any appeal, the MISD Board shall review the materials submitted by the appellant, any written comments received from the FOIA Coordinator, and such other information as the MISD Board deems necessary. A decision shall be made within the (10) business days following the date of the first MISD Board regular meeting following receipt, unless extended for not more than ten (10) additional business days as a result of unusual circumstances.

The MISD Board shall deliberate and take one of the following actions in response to the filing of an appeal:

1. Reverse the disclosure denial.
2. Issue a written notice to the requesting person affirming the disclosure denial.
3. Reverse the disclosure denial in part and issue a written notice to the requesting person affirming the denial in part.

A Requester whose request has been denied in full or in part, or who believes the fee the District has required exceed the amount permitted by law, may also file an action in circuit court. Such filing must be within 180 days after the date of the final determination to deny the request or within 45 days after receiving a notice of required fees or a determination of an appeal to the MISD Board of Education.

III. SUMMARY of the District's Procedures and Guidelines pursuant to the Freedom of Information Act

The Freedom of Information Act (which is referred to as "FOIA" in this summary) governs public records that are writings which are prepared, owned, used, in the possession of, or retained by the District in the performance of its official functions. If a person requests in writing that the District provide public records to that person, FOIA requires that the District provide those public records to the person, subject to certain exceptions and requirements.

There are certain types of information that FOIA exempts from disclosure and thus the District does not have to provide to a person in response to a FOIA request. Examples of exempt information include information subject to the attorney-client privilege, social security numbers and details related to current District security procedures. The District may deny a person's FOIA request and not provide the records if FOIA provides that information requested falls within an exemption. The District may also charge a fee to process a FOIA request and require a person to pay a deposit in order for the District to process a

FOIA request. Finally, if the Requester doesn't agree with the District's decision to deny his or her FOIA request, or if the Requester disagrees with the fee the District will charge, the Requester can challenge the District's decision.

The following summary is meant to explain the District's FOIA procedures and guidelines so that the public can better understand (i) how to submit a FOIA request to the District, (ii) the District's response to a FOIA request, (iii) the District's fee calculations, (iv) the District's deposit requirements and (v) the avenues for challenging the District's response to a FOIA request.

A. How to Submit a Written Freedom of Information Act Request to the District

A FOIA request must be submitted in writing to the District. A person may submit a FOIA request to the District in person, via mail, via facsimile, or via electronic mail. In most cases, a written request for a document will be considered a FOIA request, regardless of whether the FOIA is mentioned. The most direct way for a person to submit a written FOIA request is to submit the request to the District's FOIA coordinator:

ATTENTION: FOIA COORDINATOR
MACOMB INTERMEDIATE SCHOOL DISTRICT
44001 GARFIELD ROAD
CLINTON TOWNSHIP, MI 48038-1100
Fax: (586) 286-4420
Email: foiacordinator@misd.net

B. District's Response to a FOIA Request

FOIA requires that the District respond in writing to a FOIA request within five business days after the District received the written FOIA request. The District may take a ten business day extension to respond to a FOIA request but it must send the Requester notification of the extension within the first five day period.

The District will review a FOIA request and determine whether the District possesses records responsive to the request. The FOIA does not require the District to make a compilation, summary or report of information nor does it require the District to create a new public record. Also, if the District does not have the document requested, the District is not required to obtain it from outside the District, including from another agency or an entity under contract with the District.

If the District possesses responsive records, the District will carefully review those records so that information and documents exempt from disclosure are not provided. (As a reminder, FOIA lists certain information that is exempt from disclosure). Exemption(s) shall be noted when responding to the FOIA request, and an explanation as to what was exempted shall also be stated. If only a portion of a document is exempt, the District will redact the exempt portion and the nonexempt portion of the document will be provided.

C. District's Fee Calculations

Under certain circumstances, the District may charge a fee to process a FOIA Request. A public record may be made and copies furnished without charge for the first \$20.00 by the Requester furnishing an affidavit stating that the individual is indigent and receiving specific public assistance, or if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. If

denied, the District shall furnish a written response specifying the reason for ineligibility. A Requester shall only be permitted to obtain records twice during a calendar year under such circumstances. A Requester may also be required to make a statement in the affidavit that the request is not being made in conjunction with an outside party. Additionally, a non-profit organization designated by the state to carry out activities relating to the developmental disabilities assistance and protection and advocacy of persons for mental illness may be eligible as described in the FOIA. Questions concerning the waiver of fees should be directed to the FOIA Coordinator.

In cases where a fee will be charged, the District's response will state the amount charged and indicate that the documents will be provided after payment is received in full. If the amount to be charged exceeds \$50.00, exclusive of any waived amounts, a 50 percent deposit may be required before processing of the request begins. Upon completion of processing, the balance must be paid before the documents are delivered to the Requester.

The District may include charges for the following when calculating the estimated and/or actual fee:

1. **Labor costs directly associated with the necessary searching for, locating, and examining of public records.** This portion of a fee will not exceed the hourly wage of the lowest paid employee capable of performing the task. It will be calculated in increments of 15 minutes or more, with partial time rounded down and may include up to 50% of the applicable labor charge for fringe benefits. It will not include overtime unless Requester agrees.
2. **Labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information.** If performed by a District employee, these labor costs will not exceed the hourly wage of the lowest paid employee capable of performing the tasks. If these labor costs are incurred through contracting with a third party to perform the labor the name of the contracted laborer or firm performing labor will be provided. Contracted labor may not exceed 6 times the State minimum wage. It will be charged in 15 minute increments or more, with partial time rounded down and may include up to 50% of the applicable labor charge for fringe benefits. It will not include overtime unless the Requester agrees.
3. **Actual and most reasonably economical cost of the computer disks, computer tapes, or other digital or similar media.** This portion of the fee is only applicable for public records provided on nonpaper physical media. The Requester may agree that the records will be on non-paper physical media, emailed, or otherwise electronically provided. Also, it only applies if the District has the technological capability necessary to provide records in the requested electronic format.
4. **Actual total incremental cost of necessary duplication or publication, not including labor.** This portion of the fee is only applicable for paper copies of public records. The District will only charge a maximum of \$0.10 per sheet for 8 ½ by 11 inch or 8 ½ by 14 inch paper and will only charge the actual cost of all other types of paper. The District will use most economical means available, including double sided printing.

5. **Labor costs directly as with duplication or publication, including making paper copies, making digital copies, or transferring digital public records.** This portion of the fee will not exceed the hourly wage of the lowest paid employee capable of performing the task. It will be charged in 15 minute increments or more, with partial time rounded down and may include up to 50% of the applicable labor charge for fringe benefits. It will not include overtime wages unless the Requester agrees.
6. **Actual cost of mailing, if any, for sending the public records in a reasonably economical and Requester agrees.** The District may charge for the least expensive form of postal delivery confirmation.

When the District charges a fee, it will include the details on a Fee Itemization form that has a breakdown of the amounts used to calculate the total of each fee category.

D. District's Deposit Requirements

If a fee will exceed \$50.00, exclusive of any fee amount the District may waive, the District may require a 50% fee deposit before it begins to process a FOIA request. If a deposit is required, the District will also include a non-binding, best efforts estimate regarding the time frame it will take the District to provide the public records to the Requester.

If the District requires a fee deposit, the Requester must submit cash (in person only), a money order, or a check payable to: "Macomb Intermediate School District" and mail the money order or check to:

ATTENTION: FOIA COORDINATOR
MACOMB INTERMEDIATE SCHOOL DISTRICT
44001 GARFIELD ROAD
CLINTON TOWNSHIP, MI 48038-1100

Under certain circumstances, the District may require a deposit of 100% from a Requester who has not paid a previous FOIA fee in full to the District before the District begins another search for that Requester. The District will only require this 100% deposit if **all** of the following apply:

1. the previous final fee was not more than 105% of estimated fee;
2. records made available contained the information being sought in prior request and are still in the District's possession;
3. public records were made available to the Requester subject to payment within the time frame estimate;
4. 90 days have passed since written notification to the Requester that the records were available; and
5. the Requester is unable to show proof of prior payment to the District.

The District will no longer require an increased deposit due to failure to pay if **any** of the following apply:

1. the Requester can show proof of prior payment in full;
2. the District is subsequently paid in full;

3. three hundred sixty-five (365) days have passed since the Requester made the written request for which full payment was not remitted.

Finally, after the District finishes processing a FOIA request for which the Requester provided a fee deposit, the Requester must pay the remaining balance of the actual fee before the District provides the documents to the Requester.

E. Avenues for Challenge and Appeal

A Requester whose request has been denied in full or in part, or who believes the fee the District has required exceeds the amount permitted by law, may appeal the denial or fee to the MISD Board of Education.

The Requester shall be advised by the FOIA Coordinator of the right to file a written appeal to the MISD Board of education. The appeal shall be considered as delivered on the date of the next regular MISD Board meeting, following receipt of the appeal. The appeal must clearly be marked with the work "appeal" and identify the reason or reasons for appeal.

Where a written appeal is received by the District in accordance with the FOIA, the MISD Board shall either:

1. place the appeal on the agenda for the next regularly scheduled meeting where unusual circumstances are found to exist; or
2. consider and decide the appeal at the meeting at which it was received; or
3. direct that a special meeting be held to consider whether the appeal should be scheduled. In its consideration of any appeal, the MISD Board shall review the materials submitted by the appellant, any written comments received from the FOIA Coordinator, and such other information as the MISD Board deems necessary. A decision shall be made within the (10) business days following the date of the first MISD Board regular meeting following receipt, unless extended for not more than ten (10) additional business days as a result of unusual circumstances.

The MISD Board shall deliberate and take one of the following actions in response to the filing of an appeal:

1. Reverse the disclosure denial.
2. Issue a written notice to the requesting person affirming the disclosure denial.
3. Reverse the disclosure denial in part and issue a written notice to the requesting person affirming the denial in part.

A Requester whose request has been denied in full or in part, or who believes the fee the District has required exceed the amount permitted by law, may also file an action in circuit court. Such filing must be within 180 days after the date of the final determination to deny the request or within 45 days after receiving a notice of required fees or a determination of an appeal to the MISD Board of Education.

Fee Itemization

Estimated Fee

Actual Fee

<u>Fee Category</u>	<u>Unit Cost</u>	<u>Hourly Wage¹</u>	<u>Number of Units</u>	<u>Number of Hours Charged²</u>	<u>Multiplier</u>	<u>Total</u>
Category A: Labor costs directly associated with the necessary searching for, locating, and examining of public records.	N/A		N/A		N/A	
<i>Cost of fringe benefits³ for labor costs associated with Category A</i>	N/A		N/A			
Category B: Labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information. [Name of contracted laborer/firm performing Category B labor: _____ (if Category B labor costs are incurred through contracting with a third party to perform labor)]	N/A		N/A		N/A	
<i>Cost of fringe benefits for labor costs associated with Category B</i>	N/A		N/A			
Category C: (for public records provided on nonpaper physical media) Actual and most reasonably economical cost of the computer disks, computer tapes, or other digital or similar media.		N/A		N/A	N/A	
Category D: (for paper copies of public records) Actual total incremental cost of necessary duplication or publication, not including labor.		N/A		N/A	N/A	
Category E: Labor costs directly as with duplication or publication, including making paper copies, making digital copies, or transferring digital public records.	N/A		N/A		N/A	
<i>Cost of fringe benefits for labor costs associated with Category E</i>	N/A		N/A			
Category F: Actual cost of mailing, if any, for sending the public records in a reasonably economical and justifiable manner.		N/A		N/A	N/A	
Total Fee:						

¹ The "hourly wage" for the labor costs calculated pursuant to Categories A, B, and E is the hourly wage of the District's lowest-paid employee capable of performing the task described in each respective category, regardless of whether that person is available or who actually performs the labor.

² "Number of Hours Charged" is measured in 15 minute increments, with partial increments rounded down.

³ "Cost of Fringe Benefits" calculated pursuant to Categories A, B & E will not exceed 50% of the respective labor charges calculated pursuant to Categories A, B & E. Additionally, the District does not charge more than the actual cost of fringe benefits and overtime wages are not used in calculating the cost of fringe benefits unless the Requester so stipulates.