

Public Access to District Records

Subject to the limitation provided herein and as provided by law, full access to information concerning the administration and operations of the District shall be afforded to the public. Public access to District records shall be afforded according to appropriate administrative procedures.

Definitions

“Public record” includes any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics.

“Writing” includes, but is not limited to, handwriting, typewriting, printing, photocopying, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

“Inspect” includes the right to listen, view, and make notes of public records, so long as the public record is not altered or damaged.

“Copies” includes transcribing by handwriting, photocopying, duplicating machine, and reproducing by any other means, so long as the public record is not altered or damaged.

“Custodian”: The district employees who have physical custody and control of the public records, including those employees who respond to requests for information on a routine basis. “Custodian” also includes the person, whether elected or appointed, who is legally responsible for administration of the district, or that person’s designee.

“Designated Custodians” Those employees authorized to perform specific responsibilities that are described in this policy, including denying requests for information when appropriate to do so.

The following persons are designated custodians for this district:

1. Superintendent;
2. Treasurer; and
3. Clerk

The above-named custodians may delegate responsibilities for routine information requests.

The Board Clerk and Superintendent shall serve as “public records coordinators” with responsibility and authority for ensuring compliance with the display, indexing, availability, inspection, and copying requirements of state law and this policy. As coordinator, the Superintendent shall authorize the inspection and copying of the District's records only in accordance with the criteria set forth in this policy.

Public records of a school district do not include the personal notes and memoranda of staff that remain in the sole possession of the maker and which are not generally accessible or revealed to other persons.

In accordance with Title 9, Chapter 3, Idaho Code, the following records shall not be subject to public inspection and/or copying:

1. Any public record exempt from disclosure by federal or state law or federal regulations to the extent specifically provided for by such law or regulation. This includes, but is not limited to, student records under the Family Educational Rights and Privacy Act;
2. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent;
3. Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and non-financial membership records;
4. Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information, employment security information, ~~and~~ unemployment insurance benefit information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent;
5. Records relating to the appraisal of real property, timber or mineral rights prior to its acquisition, sale or lease by the District;
6. Any estimate prepared by the District that details the cost of a public project until such time as disclosed or bids are opened, or upon award of the contract for construction of the public project;
7. Examination, operating or condition reports and all documents relating thereto, prepared by or supplied to the District;
8. Records of any risk retention or self-insurance program prepared in anticipation of litigation or for analysis of or settlement of potential or actual money damage claims against the District and/or its employees except as otherwise discoverable under the Idaho or federal rules of civil procedure. These records shall include, but are not limited to, claims evaluations, investigatory records, computerized reports of losses, case reserves,

internal documents and correspondence relating thereto. At the time any claim is concluded, only statistical data and actual amounts paid in settlement shall be deemed a public record unless otherwise ordered to be sealed by a court of competent jurisdiction. Provided however, nothing in this subsection is intended to limit the attorney client privilege or attorney work product privilege otherwise available to any public agency or independent public body corporate and politic;

9. Computer programs developed or purchased by or for the District for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program. Computer program does not include:
  - a. The original data including, but not limited to, numbers, text, voice, graphics and images;
  - b. Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
  - c. The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.
10. Personal information from any file maintained for students. Information from student records shall be disclosed only in accordance with the requirements of the Family Educational Rights and Privacy Act of 1974 and adopted District policy;
11. Test questions, scoring keys, or other examination data used to administer academic tests;
12. Preliminary drafts, notes, recommendations and intra-District memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the District in connection with any District action;
13. Records that are relevant to a controversy to which the District is a party but which records would not be available to another party under the rules of pre-trial discovery for cases pending resolution;
14. Records of buildings, facilities, infrastructures and systems when the disclosure of such information would jeopardize the safety of persons or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes;
15. The records of a library that, when examined alone or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from the library;
16. Facts contained in any records of a juvenile maintained under the Juvenile Correction Act will be furnished upon request to any district where the juvenile is enrolled or is seeking enrollment. If a juvenile is fourteen (14) years or older and is adjudicated guilty of an offense that would be a felony if committed by an adult, the name, the offense of which the juvenile was adjudicated, and the disposition of the court will be disclosed;

However, the following records are subject to public inspection and/or copying:

All personnel records of a current or former public official reflecting public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency.

#### Distribution or Sale of Mailing or Telephone Number Lists Prohibited

This district will not distribute or sell for use as a mailing list or a telephone number list any list of persons, including students and employees, without first securing the permission of those individuals named on the list. This district will verify the identity of a person requesting a record to ensure that the requested record or information will not be used for purposes of a mailing or telephone list.

#### Procedures for Requesting Public Records

Although the Public Records Law allows this district to require written requests for information, it is this district's policy to waive the formal requirement in those cases where the information requested is readily available and routinely provided by the district.

Under some circumstances, however this district may ask the individual or organization seeking the information to put the request in writing, and to provide the individual's or organization's name, mailing address, and telephone number. Those circumstances include instances when uncertainty exists over what the individual wants, when uncertainty exists over whether the information requested is protected or privileged, or when compiling or copying the information requested is anticipated to be unduly time-consuming or difficult.

The law prohibits asking why the information is needed, except to verify the identity of a person requesting a record to ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by I.C. § 9-348. This district is permitted to explain what records are available and to help identify the material that is desired. This district is also permitted to allow the person to examine non-exempt files in order to select the specific records needed.

Staff must maintain vigilance to see that records are not altered or destroyed, but the law prohibits examination of any copy, photograph, or notes in the person's possession.

When necessary, a designated custodian may authorize an examination of records to be completed outside of regular working hours. In this event, the persons designated to represent the custodian during such examination will be entitled to reasonable compensation to be paid to them out of funds provided in advance by the person examining the records.

If there is a request to mail copies of documents to an individual, the custodian may request advanced payment for the copies and a stamped, self-addressed envelope large enough for the number of copies. If the information requested is unusual, or if there is confusion about what is being sought, the individual may be asked to submit the request in writing, along with advance payment for copies and a stamped, self-addressed envelope large enough for the number of copies. If it is deemed unnecessary to receive a written request, advance payment or a self-

addressed, stamped envelope, any or all of the requirements may be waived. Any questions should be referred to a custodian of the records.

The District shall either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by the District that a longer period of time is needed to locate or retrieve the public records, the District shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request. If the District fails to respond, the request shall be deemed to be denied within ten (10) working days following the request. If the District denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the person legally responsible for administering the District or the District's designee shall notify the person in writing of the denial or partial denial of the request for the public record. The notice of denial or partial denial shall state that the attorney for the District has reviewed the request or shall state that the District has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the person's right to appeal the denial or partial denial and the time periods for doing so. If a record is requested in electronic format and the record cannot be converted to another electronic format within ten (10) working days, the District shall notify the person requesting the records of the same and provide the records to such person at a time mutually agreed upon giving consideration to any limitations that may exist regarding electronic conversion.

If the record requested for inspection and/or copying contains both information exempted from disclosure and non-exempt information, the District shall, to the extent practicable, produce the record with the exempt portion deleted and shall provide a written explanation for the deletion.

The coordinator is authorized to seek an injunction to prevent the disclosure of records otherwise suitable for disclosure when it is determined that there is reasonable cause to believe that the disclosure would not be in the public interest and would substantially or irreparably damage any person or would substantially or irreparably damage vital governmental functions.

Unless a person requesting the public record can demonstrate an inability to pay or that the public's interest or understanding of the operation or activities of the school district or its records would suffer by the assessment or collection of any fee, the District will charge current copier contract price per copy. The custodian may require advance payment of the cost of copying. Further the District reserves the right to establish fees to recover the actual labor cost associated with the locating and copying of documents or records if the request is for more than one hundred (100) pages of paper records; or the request includes records from which nonpublic information must be deleted; or the actual labor associated with locating and copying documents for a request exceeds two (2) person hours.

If the information is also available in publication form, the district may offer the published material to the individual or organization at the standard cost of selling the publication.

If a record is requested electronically, a copy of a computer disc or similar record system the fee shall not exceed:

- (1) The District's cost of copying the information in that form;
- (2) The District's cost of conversion, or the cost of conversion charged by a third party, if the electronic record must be converted to another electronic form.

In the event an individual requests a record be provided in electronic format, the District shall provide the record in electronic format if the record is available in that format. A request for public records may be conducted by electronic mail.

Finally, the school district reserves the right to charge a uniform fee that does not exceed the School Districts direct cost of copying information for providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information.

### **INSPECTION AND CORRECTION OF AN INDIVIDUAL'S RECORDS**

An individual may inspect, copy, and request correction of public records pertaining to that person, except those portions of records that are exempt from disclosure. Such requests will be referred to a designated custodian immediately. A correction, or a written refusal to make the correction, must be made within ten (10) calendar days.

If a request to correct an individual's record is denied, written notification is required within ten (10) calendar days of the receipt of the request. A notice of refusal to amend a record must state the reasons for the refusal, and provide the statement of appeal rights and certificate of mailing as set forth below.

### **DENIAL OF REQUESTS**

If there is any doubt about whether information should be disclosed, the person who is making the request will be asked to submit that request in writing. The written request will immediately be directed to a designated custodian.

If a request for a record is denied in whole or in part, the person making the request must be notified in writing. This notice must include:

1. A statement that an attorney for the district has reviewed the request, or that the district had the opportunity to consult with an attorney and has chosen not to do so;
2. The statutory basis for the denial; and
3. A simple statement of the right to appeal and the time limit for an appeal.

A certificate of mailing must accompany the notice.

The time limit for filing an appeal is one hundred eighty (180) days from the date the notice of denial is mailed. The sole remedy for protesting the district's decision is to file a petition in the district court of the county where the records or some part of them are located, requesting the court to compel the district to make the information available or to correct the record.

When a request is denied, the requested records must be retained until the end of the appeal period, until there has been a decision on an appeal, or as otherwise provided by the Public Records Law, whichever is longer. Whenever a request is denied, there must be some indication made on the record that it must not be purged without the approval of a designated custodian.

### **PENALTY AND IMMUNITY**

The Public Records Law provides a penalty of up to one thousand dollars (\$1,000) for deliberate, bad faith denial of information that should be disclosed. The Public Records Law also provides immunity from liability for the release of records as long as there is a good-faith attempt to comply with the law's requirements. Therefore, it is important that any questions or any requests that seem doubtful be immediately referred to a designated custodian.

Cross Reference: 1530      Records Available to Public

Legal Reference: Title 9, Chapter 3 Public Records

#### Policy History:

Adopted on: August 10, 2009

Revised on: May 13, 2013