



ADMINISTRATIVE REGULATION

APPROVED:

REVISED:

801-AR-1. DISCLOSURE/PRODUCTION OF CERTAIN RECORDS

The Open Records Officer will respond as promptly as possible under the circumstances to a request for access to a public record.

The Open Records Officer will **retain copies of records requests and responses in accordance with law and the district's record retention schedule.**

Extension of Time

Upon receipt of a written request for access, the Open Records Officer will determine if any of the following **apply**:

1. Redaction - the request for access requires redaction of a record.
2. Retrieval Time/Remote Storage - the request for access requires retrieval of a record stored in a remote location.
3. Staffing Limitations - a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations.
4. Legal Review - a legal review is necessary to determine whether the requested record is a public record subject to access.
5. Lack of Policy Compliance - the requester has not complied with the Board policy governing access to public records.
6. Failure to Pay Fees - the requester refuses to pay applicable, established fees.
7. Nature of Request - the extent or nature of the request precludes a response within the required time period.

If the Open Records Officer determines that an extension of time is required to respond to a records request, the requester will be notified in writing **within five (5) business days of the receipt of the request**, in accordance with law and Board policy.

The extension notification will include:

1. **A statement notifying the requester that the request for access is being reviewed.**
2. **The reason for review of the request.**
3. **A reasonable date that a response is expected to be provided to the requester.**
 - a. **If the date that a response is expected to be provided to the requester is in excess of thirty (30) days, following the five (5) business days permitted for the initial response, the district may request additional time from the requester.**
 - b. **If the requester agrees to the extension, the request will be deemed denied on the day following the date specified in the notice if the district has not provided a response by that date.**
 - c. **The request will be deemed denied unless the requester has agreed in writing to an extension.**
4. **An estimate of applicable fees owed when the record becomes available.**

Certified Copies

If the Open Records Officer grants a request for access to a record and the requester requests a certified copy of the record for the purpose of legally verifying the public record, the Open Records Officer will provide a certified copy upon payment of the applicable, established fees by the requester.

Records In Possession of a Third Party

A request for a public record that the district does not possess but is possessed by a third party with whom the district has contracted to perform a governmental function and which relates directly to that governmental function must be submitted to the district's Open Records Officer.

If the Open Records Officer determines that the requested record is subject to public access, the Open Records Officer will respond and grant access in accordance with law, Board policy and administrative regulations.

The requester will pay the established duplication fee.

If the third party that possessed the requested public record duplicated the record in response to the request, the Open Records Officer will remit the fee to the third party.

The third party is not required to provide access to any other of its records.

Transcripts of Administrative Proceedings

Prior to an adjudication becoming final, binding and nonappealable, a transcript of an administrative proceeding will be provided to a requester by the proceeding's stenographer.

To request access to a pre-final adjudication transcript possessed by a stenographer that is subject to disclosure, the requester must directly contact the stenographer and pay the fees assessed by the stenographer.

After an adjudication becomes final, binding and nonappealable, a transcript of an administrative proceeding will be provided to a requester, and the established duplication fee will be charged.

Records Received From Third Parties - Trade Secrets/Confidential Proprietary Information

Trade secret is defined as information, including a formula; drawing; pattern; compilation such as a customer list; program; device; method; technique; or process that derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software obtained by the district under a licensing agreement prohibiting disclosure.

Confidential proprietary information is defined as commercial or financial information that is privileged or confidential and the disclosure of which would cause substantial harm to the competitive position of the individual that submitted the information.

When a third party provides a record to the district and includes a written statement signed by its representative that the record contains a trade secret or confidential proprietary information, the Open Records Officer will, upon receiving any request for such record, invoke the thirty (30) day extension and provide written notification to that third party within five (5) days of receipt of the request, that the district has received a request for access to that record.

The third party will have five (5) business days from receipt of the Open Records Officer's notice to provide input on the release of the requested record.

If it is determined that the record is a public record, the Open Records Officer will provide access to the record within ten (10) business days of providing notice to the third party and will notify the third party of the Open Records Officer's decision.

If it is determined that the record is not a public record, the Open Records Officer will deny access to the requested record and will notify the third party of the Open Records Officer's decision.

Copyrighted Materials -

The Open Records Officer may provide access to view copyrighted materials in accordance with law, Board policy and copyright agreements. Copyrighted materials may be subject to restrictions on duplication and distribution. The taking of pictures of copyrighted materials constitutes a copy.

Computer Access

The Open Records Officer will not grant requests for access to the district's or its employees' computers.

Discretionary Access

The Open Records Officer may exercise discretion and make an otherwise exempt record accessible in response to a request.

The exempt record **may only** be made accessible for access and duplication, in accordance with law and Board policy, if all of the following apply:

1. Disclosure of the record is not prohibited by federal or state law or regulation, or by judicial order or decree.
2. The record is not protected by privilege, to include the attorney-work product doctrine; attorney-client privilege; doctor-patient privilege; speech and debate privilege; or other privilege recognized by a relevant court.
- 3. The record is not the confidential proprietary record of a third party.**
4. The Superintendent determines that the public interest favoring access outweighs any individual, district or public interest that may favor restriction of access.

Appeal of Denial of Access

A requester who is denied or deemed denied access to a requested record by the district **may file a written appeal with the Office of Open Records. The appeal must be filed within fifteen (15) business days of receipt of the district's notice of denial or deemed denial. The appeal must include:**

- 1. A copy of the request filed with the district.**
- 2. A copy of the district's response, if any.**
- 3. A concise statement of the grounds that the requester asserts that the record is a public record.**
- 4. A concise statement addressing the grounds stated by the district for denial of the request.**

Appeals may be submitted to the Office of Open Records via mail, facsimile, hand delivery or electronically.

