

Board of Education Policy

SCHOOL DISTRICT RECORDS

It is the policy of the Board of Education to inform members of the public about the administration and operation of the public schools in accordance with the Freedom of Information Law of the State of New York.

The rules and regulations that follow shall govern inspection and copying of school district records:

I. Designation of Officers

- A. The Records Access Officer shall be the District Clerk.
- B. The Records Access Officer, or his/her designee, will:
 - Receive request for records of the Board of Education and make such records available for inspection or copying when such requests are granted;
 - Ensure that District information that is not permitted to be released is not released; and
 - Compile and maintain a detailed current list by subject matter, of all records in possession of the Board, whether or not available to the public.
- C. The Superintendent, with the Board's approval, shall designate a Records Management Officer for the District.
- D. The Records Management Officer will develop and oversee a program for the orderly and efficient management of District records, including maintenance of information security as it relates to release of District records. The Records Management Officer will ensure proper documentation of the destruction of records, in accordance with the schedule.

II. Definition of Records

- A. A record is defined as any information kept, held, filed, produced or reproduced by, with, or for the District in any physical form whatsoever, including but not limited to reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or disks, rules, regulations or codes.
- B. The Records Access Officer, or his/her designee, will have the responsibility for maintaining the following records:
 - A record of the final vote of each member of the Board on any proceeding or matter on which the member votes.
 - A record setting forth the name, school or office address, title and salary of every officer or employee of the District.
 - A reasonably detailed current list by subject matter of all records in possession of the District, whether or not available for public inspection or copying.
- C. No record for which there is a pending request for access may be destroyed.

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III. Requests for Inspection or Copying of Records

- A. All requests for inspection or copying of records are to be made in writing. Requests shall be accepted by electronic mail and the district shall respond by electronic mail, to the extent practicable.
- B. The record sought to be inspected must be identified with reasonable particularity. Where possible, the requestor should supply information regarding dates, file designations, or other information that may help to describe the records sought.
- C. Requests for inspection or copying of records are to be submitted to the Records Access Officer, or his/her designee.
- D. Requests for access may be denied. Nothing in these rules and regulations shall require the District to prepare any record not possessed or maintained by it except the records specified in II(B) above.

IV. Procedures

- A. Requests to inspect or secure copies of records must be submitted in writing, either in person, by mail or via email to the Records Access Officer.
- B. The Records Access Officer, or his/her designee, shall assist a requestor in the identification of the requested record, if necessary.
- C. The Records Access Officer, or his/her designee, shall, except under extraordinary circumstances, respond to a written request, reasonably describing the record or records sought within 5 business days. If the request cannot be fulfilled within 5 business days, the Record Access Officer, or his/her designee, shall furnish a written acknowledgement of receipt of the request and a statement of the approximate date when the request will be granted or denied. If a request cannot be granted within 20 business days from the date of the acknowledgement of the request, the District must state in writing both the reason the request cannot be granted within 20 business days, and a date certain within a reasonable period when it will be granted in whole or in part depending on the circumstances of the request.
- D. If a requested record is not maintained or cannot be located, the Records Access Officer, or his/her designee, shall:
 - 1. Notify the requestor of the denial or access to the record and upon request certify to the applicant that the record is not in the possession of the school district or cannot be found after diligent search by the District
- E. Advise the applicant of his/her right to appeal the denial of access to the record.

V. Inspection, Copying and Certification of Records

- A. The inspection and copying of records shall be done under the direction and supervision of the Records Access Officer, or his/her designee, at the District Clerk's Office located at 7 Memorial Drive, Miller Place, New York 11764 during any regular work day during regular

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business hours, which are 8:30am – 3:30pm during the months of September through June and 8am – 12pm during July and August

- B. Upon payment of the proscribed fee, the District shall supply copies of any record open for inspection. The fee shall be \$0.25 per page not in excess of 9 inches by 14 inches, or the actual cost of reproducing any other record. For documents larger than 9 inches by 14 inches, tape or cassette records, computer printouts or other records, the cost will be based on the actual cost of reproduction or program utilized. Fees are subject to periodic review and change. However, no fee will be charged for records sent via email, the search for or inspection of records, certification of documents, or copies of documents which have been printed or reproduced for distribution to the public. No fee will be charged if an identical record has been prepared within the past six (6) months and an electronic copy is available, except for the actual cost of a storage device if one is provided in complying with the request. The number of such copies given to any one organization or individual may be limited, in the discretion of the Records Access Officer. In determining the actual cost of reproducing a record, the District may only include: (1) the hourly salary of the lowest paid employee with the necessary skill required to prepare a copy of the record, but only where at least two hours is required, (2) the actual cost of any storage devices or media provided in complying with the request, and (3) the actual cost to the District of engaging an outside service needed to prepare a copy of the record if the District's equipment is not able to prepare a copy. The District will inform the person making the request of the estimate cost, if more than two hours of employee time would be needed, or if it would be necessary to retain an outside service.
- C. The Records Access Officer, or his/her designee, shall, upon request, certify without charge to the correctness of any record copied by the District.

VI. Denial of Access to Records and Appeals

- A. Access may be denied to certain records, or portions thereof, that:
1. Are specifically exempted from disclosure by State or Federal statute;
 2. If disclosed would constitute an unwarranted invasion of personal privacy;
 3. If disclosed would impair present or imminent contract awards or collective bargaining negotiations;
 4. Are trade secrets or are submitted to the District by a commercial enterprise or derived from information obtained from a commercial enterprise that if disclosed would cause substantial injury to the competitive position of the subject enterprise;
 5. Are compiled for law enforcement purposes and that if disclosed would:
 - a. Interfere with law enforcement investigations or judicial proceedings (except that if the District is not conducting the investigation, it must receive confirmation from the agency conducting the investigation that disclosure would interfere with an ongoing investigation);
 - b. Deprive a person of a right to a fair trial or impartial adjudication;

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- c. Identify a confidential source or disclose confidential techniques or procedures, except routine techniques or procedures; or
 - d. Reveal criminal investigative techniques or procedures, except routine techniques or procedures;
 - 6. If disclosed, would endanger the life or safety of any person
 - 7. Are inter-agency or intra-agency materials that are not:
 - a. Statistical or factual tabulations or data;
 - b. Instructions to staff that affect the public;
 - c. Final agency policy or determinations; or
 - d. External audits, including but not limited to audits performed by the Comptroller and Federal government;
 - 8. Are examination questions or answers that are requested prior to the final administration of such questions;
 - 9. Records which if disclosed would jeopardize the District's capacity to guarantee the security of its information technology assets, encompassing both electronic information systems and infrastructures; e.g., computer access codes, etc.
- B. Appeal Procedures**
- 1. All denials of access shall be in writing and state the reason for the denial.
 - 2. The failure to provide a response to a request within 5 business days of receipt of said request shall be deemed a denial of access to the record.
 - 3. An applicant denied access to a public record may file an appeal. All appeals from denial of access shall be directed to the Superintendent of Schools by delivering a copy of the request and a copy of the denial to the Superintendent within 30 days after the denial from which the appeal is taken.
 - 4. All appeals to the Superintendent shall be in writing and shall set forth:
 - a. The date and location of the request for records
 - b. The record(s) to which access was denied
 - c. The name and address of the requestor
 - d. The date of the appeal
 - 5. Appeals shall be decided and the requestor shall be informed of the decision in writing within 10 business days after the receipt of the appeal.
 - 6. The Superintendent shall explain in the appeal decision the reasons for further denial or provide access to the records sought.
 - 7. The District shall immediately forward to the Committee on Open Government a copy of such appeal when received by the District and the ensuing determination thereon. Such copies shall be addressed to: the Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Ave, Suite 650, Albany, N.Y. 12231. A final denial

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of access to a requested record shall be subject to court review as provided by Article 78 Civil Practice Laws and Rules.

8. The requestor and the Committee on Open Government will be informed of the Superintendent's determination in writing within 10 business days of receipt of an appeal. The Superintendent will transmit to the Committee on Open Government photocopies of all appeals and determinations.

VII. Public Notice

- A. A notice shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation. Such notice shall contain: the title, name, business telephone number and business address of the Records Access Officer; the right to appeal by any person denied access and the name and business address of the Superintendent as the appeals person; and the location where records can be inspected or copied.

VIII. Listing of Records

- A. Pursuant to Section 87(3)(c) of the Public Officers Law, the District will maintain a reasonably detailed list by subject matter of all records in the possession of the District, whether or not available under the law. The subject matter list will be detailed enough to allow the category of the information sought to be identified. The District will update the subject matter list annually, and conspicuously show the most recent date on the list. The Superintendent or designee, in consultation with the Records Management Officer, will develop and disseminate department-specific guidance so staff can implement this policy.

IX. Retention and Destruction of Records

- A. The Board adopted the Retention and Disposition Schedule for New York Local Government Records (LGS-1) issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, which contains the legal minimum retention periods for District records. In accordance with Article 57-A, the District will dispose of only those records described in the schedule after they have met the minimum retention periods set forth in the schedule. The District will dispose of only those records that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond the established minimum periods.

The manner of destruction will be determined by the format of the record (i.e., paper, digital, etc.). In addition, destruction will be appropriately documented.

X. Employee Notification of Disciplinary Record Request

As required by Public Officers Law §87, the District will notify current and former employees in writing that the District has responded to a Freedom of Information Law request for their disciplinary records within 10 working days after the District provides information in response to the request. For former employees, the District will send notification to the last known address or email address, and

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if current contact information cannot be found, the District will document its attempts.

For purposes of this policy, the District defines “disciplinary records” as any record created in furtherance of a disciplinary proceeding (i.e., any investigation and subsequent hearing or disciplinary action conducted by the District), including but not limited to:

1. The complaints, allegations, and charges against an employee;
2. The name of the employee complained of or charged;
3. The transcript of any disciplinary hearing, including any exhibits introduced at such hearing;
4. The disposition of any disciplinary proceeding; and
5. The final written opinion or memorandum supporting the disposition and discipline imposed including the District’s complete factual findings and its analysis of the conduct and appropriate discipline of the employee.

XI. Litigation Hold

The Superintendent will establish procedures in the event that the District is served with legal papers. The Superintendent will communicate with applicable parties, including the school attorney and the records management official, to ensure that, when appropriate, a litigation-hold is properly implemented. The litigation-hold is intended to prevent the destruction or disposal of records that may need to be produced as part of discovery. It is the intention of the Board of Education to comply with all applicable rules and regulations regarding the production of necessary documents, data, files, etc. The Board directs the Superintendent to institute such procedures to implement this policy. The Superintendent, with the assistance of the Director of Information Systems, will ensure that measures are put in place to preserve applicable records.

XII. Prevention of Unwarranted Invasion of Privacy

To prevent an unwarranted invasion of personal privacy, the Records Access Officer may delete the identifying details when records are made available. An unwarranted invasion of personal privacy includes, but is not limited to:

1. Disclosure of confidential personal matters reported to the Board which are not relevant or essential to the ordinary work of the Board;
2. Disclosure of employment, medical or credit histories or personal references of applicants for employment, unless the applicant has provided a written release permitting such disclosures;
3. Sale or release of lists of names and addresses in the possession of the Board if such lists would be used for private, commercial, or fundraising purposes;
4. Disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such records are not relevant or essential to the ordinary work of the Board; or
5. Disclosure of items involving the medical or personal records of a client or patient in a hospital or medical facility.

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Unless otherwise deniable, disclosure is not construed to constitute an unwarranted invasion of personal privacy when identifying details are deleted, when the person to whom records pertain consents in writing to disclosure, or when upon presenting reasonable proof of identity, a person seeks access to records pertaining to themselves.

Any release of student or teacher/principal personally identifiable information (PII) must comply with state Education Law §2-d and regulations 8 NYCRR Part 121, in that the District will not:

- Include PII in public reports or other documents;
- Sell or use PII for commercial or marketing purposes;
- Facilitate the use or disclosure of PII for commercial or marketing purposes by another entity;
- Permit another entity to use or disclose PII for commercial or marketing purposes.

Additionally, even if a release of PII would be permitted under the state's Freedom of Information Law (FOIL), the District will not use or disclose any such PII unless it benefits students and the District, in conformance with state Education Law §2-d and state regulations 8 NYCRR Part 121. Releases that "benefit students and the district" include:

- Improving academic achievement;
- Empowering parents and students with information; and/or
- Advancing efficient and effective school operations.

The Superintendent, the District's Data Protection Officer, and the District's attorney, if necessary, will assist in determining whether complying with a FOIL request can be done in conformance with Education Law §2-d and state regulations 8 NYCRR Part 121.

Cross-Ref: *Policy 2200 – Duties of the District Clerk*
 Policy 1120-F – Application for Public Access to School District Records
 Policy 6950 – Records Management

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