

CHAPTER TWO GENERAL ADMINISTRATION

PUBLIC INFORMATION AND INSPECTION OF RECORDS

2.135

- (A) Purpose. The purpose of this policy is to provide guidelines for responding to public record requests in accordance with Chapter 119, Florida Statutes and Article 1, s. 24(a), Florida Constitution. The guidelines explained below are set forth to inform and guide the public and District employees in the implementation of public records law and to ensure uniformity in providing access to public records.
- (B) Definitions.
- (1) The term “Public Records” is defined as all documents, pages, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by the School Board and the District.
 - (2) The term “public record request” is defined as any request to inspect, photograph, or otherwise receive copies of a public record made or received in connection with the official business of the School Board and the District. Such records will be made available upon request to any person or organization for inspection, examination, or copying in accordance with applicable law.
- (C) Designation of Record Custodian to Process Public Record requests. As used herein, the term “Record Custodian” refers to the Director of Communications or his or her designee. The Record Custodian shall coordinate all public record requests and prepare and monitor the District’s responses. The contact information for the designated Record Custodian shall be displayed on the District website. The Record Custodian can be reached at BDSComm@bay.k12.fl.us.
- (D) Confidential and Exempt Records.
- (1) By law, some records are confidential or exempt from public disclosure and not subject to public record requests. If the Record Custodian asserts that part of a requested record is confidential or exempt, the Record Custodian shall redact that portion of the record which is confidential or exempt and produce the remainder of such record for inspection or copying.
 - (2) If all or part of the requested record is exempt from public disclosure by law, the Record Custodian shall provide a citation of the statutory exemption to the requestor. If questions or concerns arise regarding the appropriate application of a statutory exemption the Record Custodian should consult with the School Board attorney.
 - (3) Records maintained by the District which may be exempt from public inspection include, but are not limited to (these exemption summaries should be used for reference only - the full text of the exemption can be found in the cited Florida Statutes and should be reviewed before drawing any legal conclusion):
 - (a) Education records, as defined in the Federal Family Educational Rights and Privacy Act (FERPA) and §1002.22, Florida Statutes, pursuant to §1002.221, Florida Statutes;
 - (b) Portions of personnel records, pursuant to §1012.31, Florida Statutes;

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- (c) Claims files maintained by the risk management program administered by the District are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until termination of all litigation and settlement of all claims arising out of the same incident, although portions of the claims files may remain exempt, as otherwise provided by law. Claims files records may be released to other governmental agencies upon written request and demonstration of need; such records held by the receiving agency remain confidential and exempt, pursuant to §768.28 (16)(b), Florida Statutes;
- (d) Security camera videotape pursuant to §119.071(3)(a), and §281.301, Florida Statutes. Such videotape may also be confidential and exempt as an education record when it depicts students, pursuant to §1002.221, Florida Statutes;
- (e) Data processing software obtained under a licensing agreement which prevents its disclosure pursuant to §119.071(1)(f), Florida Statutes;
- (f) All work products developed in preparation for collective bargaining pursuant to §447.605, Florida Statutes;
- (g) Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation until such time as the agency provides notice of an intended decision or until thirty days after opening the bids, proposals, or final replies, whichever is earlier, pursuant to §119.071(1)(b)2, Florida Statutes;
- (h) Legal records prepared by an attorney exclusively for civil or criminal litigation or for adversarial administrative proceedings, until the conclusion of the litigation or adversarial administrative proceedings, pursuant to §119.071(1)(d), Florida Statutes;
- (i) Appraisals, offers, and counteroffers related to the purchase of real property, pursuant to §1013.14, Florida Statutes;
- (j) A complaint of misconduct filed with the District against a District employee and information obtained in the investigation until the investigation is concluded with a finding to proceed or not to proceed with disciplinary action or charges and the subject of the complaint has been notified of the finding. No material derogatory to an employee shall be open to inspection until ten days after the employee has been notified, pursuant to §1012.31, Florida Statutes; and,
- (k) Architectural plans and drawings of school facilities, pursuant to §119.071(3)(b)(1), Florida Statutes.

(E) Procedures for Accepting and Processing Public Record requests.

- (1) All public records that are not otherwise confidential or exempt shall be available for inspection or copying under the supervision of the Record Custodian at reasonable times during normal office hours of the District office or other office in which the records are maintained.
- (2) Public record requests shall be accepted in writing, by electronic mail, by telephone, by facsimile, or in person. Individuals are encouraged, but not required, to submit public record requests in writing through the District's online portal, found at <https://baycountydistrictschoolsfl.justfoia.com/publicportal/home/newrequest>. Public record requests that are submitted through the portal and identify the specific records to be inspected or copied assist the District in providing a more accurate response in a

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shorter period of time. The requestor shall not be required to identify himself/herself as a condition of making a public record request.

- (3) Public record requests may be submitted to any employee, however, submission directly to the Record Custodian is suggested and is likely to minimize processing time. Employees may encourage a requestor to contact the Record Custodian directly with the request but may not require it.
- (4) The District will not create records in order to respond to a Record request, but will provide existing records, in whatever form those records exist or are able to be produced without disclosing confidential information.
- (5) If a School Board member or District employee receives a public record request, whether verbally or in writing, the Board member or employee shall notify the Record Custodian the same day, if at all possible, but no later than one business day from the time the request is received. When forwarding a public record request to the Record Custodian, the Board member or employee shall provide all information available, including the name and contact information of the requestor and the records being requested.
- (6) Upon receipt of any public record request, the Record Custodian shall acknowledge receipt of the request in writing to the requestor. The acknowledgement will include a notice that there may be a cost involved with the processing of the request. If applicable, the requestor will be provided with a cost estimate to approve prior to the request being processed.
- (7) If a public record request is insufficient to identify the records sought, the requestor shall be promptly notified that more information is needed in order to produce the records. The District shall offer reasonable assistance to the requestor in describing the nature and extent of such information.
- (8) No automatic waiting period shall be imposed on a public record request. The only delay permitted is that which is reasonably necessary to allow for compilation of the requested records and protection against disclosure of those portions of records that are confidential or exempt by law.
- (9) The District will make every effort to provide a public record request in the format identified by the requestor. However, if that format is unavailable for whatever reason, the Record Custodian shall contact the requestor to determine an alternate format in which to fulfill the request. Records may also be unavailable in certain formats if redactions are necessary to prevent the disclosure of those portions of records that are confidential or exempt by law.
- (10) The Record Custodian shall keep a log of all public record requests received. The log shall include, at a minimum:
 - (a) date of the request;
 - (b) name of the employee who received the request;
 - (c) name of requestor, if available;
 - (d) description of record request;
 - (e) name of the employee who provided the records that fulfill the request;
 - (f) date of completion of the request; and
 - (g) cost, if any, paid by the requestor to fulfill the request.

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(F) Fees for Processing Public Record requests.

- (1) Florida Statutes allows for the collection of fees in the fulfillment of a public record request. Duplication costs shall be applied as follows:
 - (a) One-sided paper copies - \$0.15 per page, up to legal size (8 ½ X 14 inches)
 - (b) Double-sided paper copies - \$0.20 per page, up to legal size (8 ½ X 14)
 - (c) Certified paper copies - \$1.00 per page
 - (d) Electronic copies – Electronic files sent to a requestor via e-mail shall be provided at no additional charge
 - (e) All other copies – All other copies (larger size paper, CD, DVD, USB, etc.) shall be provided at the actual cost of materials used to duplicate the record(s).
 - (f) Requestor-provided material is prohibited – the District will not accept CDs, DVDs, or USB drives provided by the requestor due to computer virus and computer security concerns.
- (2) Shipping costs incurred in the delivery of records shall be included in the cost charged to the requestor.
- (3) If the nature or volume of public records to be inspected or copied is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by a District employee, the District shall, in addition to duplication costs, apply a service charge based on the actual cost incurred for such extensive use of information technology resources or the actual labor cost of the employee providing the service.
 - (a) The term "Extensive Use" means any time longer than 15 minutes needed to complete all tasks defined in subparagraphs (i) and (ii) below:
 - i. Extensive Use of clerical or supervisory assistance includes longer than 15 minutes of locating and retrieving of records; reviewing records for statutorily exempt information; preparing records for inspection or copying by redacting or excising exempt or confidential information from records prior to review or copying; monitoring of the inspection or copying of records when necessary to ensure the integrity of the records; and instructing, or supervising personnel in performing the foregoing tasks when responding to a particular public records request.
 - ii. Extensive Use of information technology resources includes longer than 15 minutes of writing or executing software commands or setting up information technology resources. Under Fla. Stat. § 119.07(1)(b), the term shall include data processing hardware, software, or services; and/or communications, supplies, personnel, facility resources, maintenance, and technology training required to fulfill a given public records request.
 - (b) The special service charge for Extensive Use may be based on either or both of the following, as applicable:
 - i. the cost incurred for Extensive Use of information technology resources; and

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- ii. the labor cost actually incurred by, or attributable to, the District for clerical or supervisory assistance of the personnel providing the service.

When an Extensive Use special service charge includes labor costs, the charge will be based on the current hourly rate of pay (including benefits) of the personnel whose time contributes to the Extensive Use of clerical or supervisory assistance required to fulfill the records request. When the Extensive Use consists of tasks that should be performed by an attorney, law clerk, or paralegal, such as reviewing materials for exemptions and confidential information requiring redaction, the District may reasonably charge the attorney's or law clerk's/paralegal's hourly salary (excluding benefits).

(4) Fee Collection and Processing.

- (a) When all allowable fees applicable to a particular public record request can be calculated in advance, they should be collected prior to the District investing significant information technology resources or clerical or supervisory assistance.
- (b) When actual costs and extensive use fees cannot be immediately determined due to the nature of the request, the District shall give an estimated cost for producing the records. When the requestor accepts the cost estimate and provides a 50% partial payment, the request will be processed. Upon payment of the final invoice, the records will be provided to the requestor.
- (c) Should the requestor fail to pay the actual costs or extensive use charges incurred to produce the request, the request will not be fulfilled. Full and final payment of costs is required prior to release of the records.
- (d) The District accepts payment in the form of checks or money orders made payable to the School Board of Bay County, Florida.

Statutory Authority: §§1001.41 and 1001.42, Florida Statutes

Laws Implemented: §§ 119.07; 119.071; 281.301; 447.605; 1002.22; 1002.221; 768.28; 1012.31; and 1013.14, Florida Statutes

History: New, July 27, 2021