

The public has the right to access this district's public records. This policy sets forth the procedure for accessing public records.

## **DEFINITIONS**

Public Records: Include, but are not limited to, any writing containing information relating to the conduct or administration of the district's business that is prepared, owned, used, or retained by the district, regardless of the physical form or characteristics and includes e-mail containing information relating to the conduct and administration of district business.

Writing: Includes, but are not limited to, handwriting, typewriting, printing, photostating, photographing, and every means of recording, including words, pictures, audio recordings, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetics, or punched cards, disks, 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 the designated custodians for this district:

1. Superintendent
2. Treasurer
3. Clerk

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

## **EXEMPT MATERIALS FROM PUBLIC REVIEW**

The Idaho Legislature has set forth particular records that are exempt from disclosure to the public. All employees should be aware of the following exemptions that apply to this school district. The following list sets forth some of the designated exempt records:

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. Records relating to the appraisal of real property, timber, or mineral rights, prior to its acquisition, sale, or lease by the district.
3. 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.
4. 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.
5. Computer programs developed and purchased by or for the district for its own use. However, computer program does not include:
  - a. The original data including, but not limited to, numbers, texts, voice, graphics, and images;
  - b. Analysis, compilation, and other manipulative forms of the original data produced by use of the program;
  - c. The mathematical or statistical formulas that will be used if the manipulative forms of the original data were to be produced manually.
6. Employment security information and unemployment insurance benefit information, except that all interested parties may agree to waive the exemption.
7. 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.
8. All personnel records of a current or former employee other than the employee's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace, and employing district.
9. All other personnel information relating to the 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, will not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative

may inspect and copy his or her personnel records, except for material used to screen and test for employment.

**RECORDS CONTAINING A COMBINATION OF BOTH EXEMPT AND NON-EXEMPT MATERIALS**

When exempt and non-exempt materials are combined, the district is responsible for separating the exempt from the non-exempt information and for supplying the non-exempt record. The Public Records Law prohibits denying access based on the fact that the record contains both types of materials.

Even if an exemption applies to a record, the law allows disclosure of statistical information that does not identify any particular person.

**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 this 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 Idaho Code Section 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.

A request for records, whether submitted informally or in writing, must be granted or denied within three (3) working days. The designated custodians are authorized to determine that a request cannot be fulfilled within three (3) working days. If more than three (3) working days are needed to locate or retrieve the records, the individual seeking the records will be requested to submit a written request. The request must be granted or denied in whole or in part within ten (10) working days. Provided that, if it is determined that a requested electronic record exists but must first be converted to another electronic format, and that such conversion cannot be completed within ten (10) days, the custodian shall notify the individual requesting the record in writing. The district shall provide the converted public record at a time mutually agreed upon

between the district and the requesting party, with due consideration given to any limitations that may exist due to the process of conversion, or the use of a third party to make the conversion.

If no answer is provided by this district within ten (10) working days, the request will be deemed to have been denied.

### **MEDIA REQUESTS**

All requests by the media, i.e., interviews, information, must be referred to the district office. The superintendent or designee will be the first responder for media inquiries.

### **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.

### **COSTS FOR PROVIDING PUBLIC RECORDS**

The Public Records Law permits this district to charge for the actual cost of copying records or for providing a duplicate computer tape, computer disc, microfilm, or similar or analogous record system containing the public record information requested. The district's actual cost of conversion, if the existing record is converted to another electronic form, may be charged to the requesting party. The copying fee schedule will be made available to those individuals requesting copies and will be updated from time to time as necessary to reflect the actual copying costs to the district.

The fee charged for providing information in the form of computer tapes, disks, microfilm, or similar record media, may not exceed the amount of the direct cost of copying. 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.

This district may also charge, at the discretion of the custodian of the records, the actual labor cost, which will include the hourly wage and cost of benefits of the employee associated with locating and copying documents when:

1. The request is for more than one hundred (100) pages of paper records; or
2. The request includes records from which nonpublic information must be deleted; or
3. The actual labor, as defined above, associated with locating and copying documents for a request exceeds two (2) person hours.

This district may require advance payment of the photocopying charges for major copying work. A decision on whether to require advance payment will be made by a custodian of the records.

No cost or fees for copies or labor will be charged by this district when the requester demonstrates:

1. The inability to pay; or
2. That the public's interest or the public's understanding of the operations or activities of government or its records would suffer by the assessment or collection of any fee.

When necessary, a designated custodian may authorize an examination of records to be done 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.

### **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;
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.



**LEGAL REFERENCE:**

Idaho Code Section 9-337, *et seq.*

34 CFR Part 99

*Cowles Publishing Company v. Kootenai County Board of Commissioners, et al., Idaho S.*

*CT.Op. 2007-74 (May 4, 2007)*

**ATTACHMENTS:**

Exhibit 276: Request for Public Records

**FIRST READING:** February 10, 2003

**ADOPTED:** March 10, 2003

**REVISED:** December 11, 2006

**REVISED:** February 4, 2008