

CSBA Sample

Board Policy

Community Relations

BP 1340(a)

ACCESS TO DISTRICT RECORDS

Note: The following **optional** policy and accompanying administrative regulation reflect **requirements of the laws regarding public access under the California Public Records Act (CPRA) (Government Code 6250-6270) to** ~~pertaining to public access to district-public records of the district under the California Public Records Act (Government Code 6252-6270).~~ **"Public records," as defined by Government Code 6252, include any records relating to the conduct of the district's business prepared, owned, used, or retained by the district regardless of physical form or characteristics; see section on "Definitions" in the accompanying administrative regulation.** For information regarding retention of records, see BP/AR 3580 - District Records, **AR 4112.6/4212.6/4312.6 - Personnel Files**, and BP/AR 5125 - Student Records.

The Governing Board recognizes the right of citizens to have access to public records of the district. The Board intends the district to provide any person reasonable access to the public records of the schools and district during normal business hours and within the requirements of law. Public access shall not be given to records listed as exempt from public disclosure in the California Public Records Act and other state or federal law.

(cf. 3553 - *Free and Reduced Price Meals*)
(cf. 3580 - *District Records*)
(cf. 4112.5/4212.5/4312.5 - *Criminal Record Check*)
(cf. 4112.6/4212.6/4312.6 - *Personnel Files*)
(cf. 4119.23/4219.23/4319.23 - *Unauthorized Release of Confidential/Privileged Information*)
(cf. 5020 - *Parent Rights and Responsibilities*)
(cf. 5125 - *Student Records*)
(cf. 5125.1 - *Release of Directory Information*)
(cf. 6162.5 - *Student Assessment*)
(cf. 9011 - *Disclosure of Confidential/Privileged Information*)
(cf. 9321 - *Closed Session Purposes and Agendas*)

Note: In City of San Jose v. Superior Court, the California Supreme Court held that communications regarding public business transmitted to or by public officials on a personal account or device are not categorically exempt from disclosure under the CPRA (Government Code 6250-6270). The court noted that public agencies are required to disclose all applicable records that can be located "with reasonable effort," including those records contained on a public official's or employee's personal device regardless of whether they were transmitted through district servers. Such searches need not be extraordinary or intrusive. For further information, see CSBA's Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications. Also see AR 3580 - District Records and BB 9012 - Board Member Electronic Communications.

In response to a public records request, the Superintendent or designee shall make reasonable efforts to locate the requested records, including, but not limited to, any electronic communication substantively related to the records, such as email, text messages, instant messages, and other electronic communications, regardless of whether they are

transmitted through a district-provided device or account or through an employee's or Board member's personal device or account.

BP 1340(b)

ACCESS TO DISTRICT RECORDS (continued)

(cf. 4040 - Employee Use of Technology)

(cf. 9012 - Board Member Electronic Communications)

Note: Government Code 6253 authorizes the district to charge a person requesting a copy of a record a fee covering the direct costs of duplication; however, no fee can be charged to a person who wishes to inspect but not copy a record. In North County Parents Organization for Children with Special Needs v. Department of Education, the court determined that direct costs include only the cost of running the copy machine and possibly the expense of the person operating it. Direct costs do not include the other costs that may be associated with the request, such as searching, reviewing, or redacting the record; assisting the requester in formulating the request; responding to the request; or employee time to sit with the requester during inspection of the record. Because it is not clearly authorized by law, districts wishing to charge for the cost of the copy machine operator should consult with legal counsel.

In addition, Government Code 6253 authorizes districts to provide faster access or access to more records than the minimum standards provided by law. According to the court in North County Parents Organization, this provision permits a district to waive or reduce its fees. For example, a district may consider waiving fees below a certain dollar threshold because the costs of collecting the fee exceed the fee amount.

The district may charge for copies of public records or other materials requested by individuals or groups. The charge shall be based on actual costs of duplication, as determined by the Superintendent or designee and as specified in administrative regulation.

Note: The following paragraph is **optional**.

In order to help maintain the security of district records, members of the public granted access shall examine records in the presence of a district staff member.

Legal Reference:

EDUCATION CODE

35145 Public meetings

35170 Authority to secure copyrights

35250 Duty to keep certain records and reports

41020 Requirement for annual audit

42103 Publication of proposed budget; hearing

44031 Personnel file contents and inspections

44839 Medical certificates; periodic medical examination

49060-49079 ~~Pupil~~ **Student** records

49091.10 Parental review of curriculum and instruction

~~52850 Applicability of article (School Based Program Coordination Plan availability)~~

GOVERNMENT CODE

3547 Proposals relating to representation

6250-6270 California Public Records Act

6275-6276.48 Other exemptions from disclosure
53262 Employment contracts
54957.2 Minute book record of closed sessions

Legal Reference continued: (see next page)

BP 1340(c)

ACCESS TO DISTRICT RECORDS (continued)

Legal Reference: (continued)

GOVERNMENT CODE (continued)

54957.5 Agendas and other writings distributed for discussion or consideration

81008 Political Reform Act, public records; inspection and reproduction

CALIFORNIA CONSTITUTION

Article 1, Section 3 Right of access to governmental information

CODE OF REGULATIONS, TITLE 5

430-438 Individual ~~pupil~~ student records

COURT DECISIONS

City of San Jose v. Superior Court (2017) 2 Cal.5th 608

Los Angeles County Board of Supervisors v. Superior Court (2016) 2 Cal.5th 282

International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County, (2007) 42 Cal.4th 319

Los Angeles Times v. Alameda Corridor Transportation Authority, (2001) 88 Cal.App.4th 1381

Kleitman v. Superior Court, (1999) 74 Cal.App. 4th 324

Fairley v. Superior Court, (1998) 66 Cal.App. 4th 1414

North County Parents Organization for Children with Special Needs v. Department of Education, (1994) 23 Cal.App. 4th 144

ATTORNEY GENERAL OPINIONS

71 Ops.Cal.Atty.Gen. 235 (1988)

64 Ops.Cal.Atty.Gen. 186 (1981)

Management Resources:

CSBA PUBLICATIONS

Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications, March 2017

ATTORNEY GENERAL PUBLICATIONS

Summary of the California Public Records Act, 2004

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

The People's Business: A Guide to the California Public Records Act, 2008

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.caag.state.ca.us> <https://oag.ca.gov>

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

State Bar of California: <http://www.calbar.ca.gov>

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Policy Reference UPDATE Service

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