

BP 1340

Access to District 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 with reasonable access to the public records of the schools and district during normal business hours and within the requirements of law. The District is not required to provide public access to records listed as exempt from public disclosure in the California Public Records Act and other state or federal law.

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, 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. The Superintendent or designee is not required to disclose records not required by law and is not required to synthesize, summarize, or create new records in response to a public records act request unless required by law.

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

In order to help maintain the security of district records, members of the public that view records in a district facility shall do so in the presence of a district staff member.

Definitions

Public records include any writing containing information relating to the conduct of the district's business prepared, owned, used, or retained by the district regardless of physical form or characteristics. The location of a physical writing (e.g., classroom, district office, private residence) and the location of an electronic writing (e.g., server, computer hard drive) is irrelevant to whether a record is considered public.

Writing means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

Member of the public means any person, except a member, agent, officer, or

employee of the district or a federal, state, or other local agency acting within the scope of his/her membership, agency, office, or employment.

Redaction

When disclosing any record, the Superintendent or designee shall ensure that information is redacted from that record as required by law. Information that shall be redacted includes, but is not limited to, personal information such as an employee's home address, home telephone number, social security number, personal cell phone number, or birth date or a student's name, home address, home telephone number, social security number, personal cell phone number, birth date, or district-provided email address.

Exemptions

Unless otherwise required by law, records to which members of the public shall not have access include, but are not limited to, the following categories:

- Individual student records
- Individual personnel files
- Records related to pending litigation
- Attorney-client communications

Additionally, the district shall not disclose any record for which the district can demonstrate that, based on the particulars of that record and the underlying request, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. Records in which the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record may include records necessary to exempt from disclosure in order to protect the privacy rights of District students and/or employees and for the district to function in a reasonably efficient manner.

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 Student records

49091.10 Parental review of curriculum and instruction

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

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 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://oag.ca.gov>

Institute for Local Government: <http://www.cacities.org>

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

Policy `BERKELEY UNIFIED SCHOOL DISTRICT

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