

Board Policy

Access To District Records

BP 1340

Community Relations

The Board of Trustees 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)

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.

(cf. 4040 - Employee Use of Technology)

(cf. 9012 - Board Member Electronic Communications)

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.

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 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: <https://oag.ca.gov>
Institute for Local Government: <http://www.cacities.org>
State Bar of California: <http://www.calbar.ca.gov>

Policy BANNING UNIFIED SCHOOL DISTRICT
adopted: July 18, 2017 Banning, California

Administrative Regulation

Access To District Records

AR 1340

Community Relations

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. (Government Code 6252)

(cf. 3580 - District Records)

(cf. 9012 - Board Member Electronic Communications)

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. (Government Code 6252)

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. (Government Code 6252)

Public Records

Public records to which members of the public shall have access include, but are not limited to:

1. Proposed and approved district budgets and annual audits (Education Code 41020, 42103)

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

2. Statistical compilations

3. Reports and memoranda

4. Notices and bulletins

5. Minutes of public meetings (Education Code 35145)

(cf. 9324 - Minutes and Recordings)

6. Meeting agendas (Government Code 54957.5)
(cf. 9322 - Agenda/Meeting Materials)
7. Official communications between the district and other government agencies
8. School-based program plans (Education Code 52850)
(cf. 0420 - School Plans/Site Councils)
9. Information and data relevant to the evaluation and modification of district plans
(cf. 0440 - District Technology Plan)
(cf. 0460 - Local Control and Accountability Plan)
(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 0520.3 - Title I Program Improvement Districts)
10. Initial proposals of exclusive employee representatives and of the district (Government Code 3547)
(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)
11. Records pertaining to claims and litigation against the district which have been adjudicated or settled (Government Code 6254, 6254.25)
(cf. 3320 - Claims and Actions Against the District)
12. Statements of economic interests required by the Conflict of Interest Code (Government Code 81008)
(cf. 9270 - Conflict of Interest)
13. Documents containing names, salaries, and pension benefits of district employees
14. Employment contracts and settlement agreements (Government Code 53262)
(cf. 2121 - Superintendent's Contract)
(cf. 4117.5/4217.5/4317.5 - Termination Agreements)
(cf. 4141/4241 - Collective Bargaining Agreement)
15. Instructional materials including, but not limited to, textbooks (Education Code 49091.10)
(cf. 5020 - Parent Rights and Responsibilities)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

Access to public records of the district shall be granted to Board of Trustees members on the same basis as any other member of the public. When Board members are authorized to access public records in the administration of their duties, the Superintendent or designee shall not discriminate among any of the Board members as to which record, or portion of the record, will be made available, or when it will be made available. (Government Code 6252.5, 6252.7)

When disclosing to a member of the public any record that contains personal information, including, but not limited to, an employee's home address, home telephone number, social security number, personal cell phone number, or birth date, the Superintendent or designee shall ensure that such personal information is redacted from that record. (Government Code 6254.29, 6254.3)

Confidential Public Records

Records to which the members of the public shall not have access include, but are not limited to:

1. Preliminary drafts, notes, interagency or intradistrict memoranda that are not retained by the district in the ordinary course of business, provided that the public interest in withholding these records clearly outweighs the public interest in disclosure (Government Code 6254)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

2. Records specifically generated in connection with or prepared for use in litigation to which the district is a party or to respond to claims made against the district pursuant to the Tort Claims Act, until the litigation or claim has been finally adjudicated or otherwise settled, or beyond, if the records are protected by some other provision of law (Government Code 6254, 6254.25)

3. Personnel records, medical records, or similar materials, the disclosure of which would constitute an unwarranted invasion of personal privacy (Government Code 6254)

(cf. 4112.5/4212.5/4312.5) - Criminal Record Check)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)

The home addresses, home telephone numbers, personal cell phone numbers, or birth date of employees may only be disclosed as follows: (Government Code 6254.3)

- a. To an agent or a family member of the employee
- b. To an officer or employee of a state agency or another school district or county office of education when necessary for the performance of official duties
- c. To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home address and any telephone number for an employee who performs law enforcement-related functions, or the birth date of any employee,

shall not be disclosed

Upon written request of any employee, the district shall not disclose the employee's home address, home telephone number, personal cell phone number, or birth date, and the district shall remove this information from any mailing list of the district except a list used exclusively to contact the employee.

(cf. 4140/4240/4340 - Bargaining Units)

d. To an agent or employee of a health benefit plan providing health services or administering claims for health services to district employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents

(cf. 4154/4254/4354 - Health and Welfare Benefits)

4. Student records, except directory information and other records to the extent permitted under the law, when disclosure is authorized by law

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5125.3 - Challenging Student Records)

5. Test questions, scoring keys, and other examination data except as provided by law (Government Code 6254)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6162.52 - High School Exit Examination)

6. Without affecting the law of eminent domain, the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the district relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained (Government Code 6254)

7. Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information (Government Code 6254)

8. Library circulation and patron use records of a borrower or patron including, but not limited to, his/her name, address, telephone number, email address, borrowing information, or use of library information resources, except when disclosure is to a person acting within the scope of his/her duties in the administration of the library, to a person authorized in writing by the individual to whom the records pertain, or by court order (Government Code 6254, 6267)

(cf. 6163.1 - Library Media Centers)

9. Records for which the disclosure is exempted or prohibited pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege (Government Code 6254)

(cf. 9124 - Attorney)

10. Documents prepared by or for the district to assess its vulnerability to terrorist attack or other criminal acts intended to disrupt district operations and that are for distribution or consideration in closed session (Government Code 6254)

(cf. 0450 - Comprehensive Safety Plan)

11. Recall petitions, petitions for special elections to fill Board vacancies, or petitions for the reorganization of the school district (Government Code 6253.5)

(cf. 9223 - Filling Vacancies)

12. Minutes of Board meetings held in closed session (Government Code 54957.2)

(cf. 9321 - Closed Session Purposes and Agendas)

13. Computer software developed by the district (Government Code 6254.9)

14. Information security records, the disclosure of which would reveal vulnerabilities to, or otherwise increase potential for an attack on, the district's information technology system (Government Code 6254.19)

15. Records that contain individually identifiable health information, including records that may be exempt pursuant to physician-patient privilege, the Confidentiality of Medical Information Act, and the Health Insurance Portability and Accountability Act (Government Code 6254, 6255)

(cf. 5141.6 - School Health Services)

16. Any other records listed as exempt from public disclosure in the California Public Records Act or other statutes

17. Any other records for which the district can demonstrate that, based on the particular facts of the case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Government Code 6255)

Inspection of Records and Requests for Copies

Any person may request a copy or inspection of any district record that is open to the public and not exempt from disclosure. (Government Code 6253)

Within 10 days of receiving any request to inspect or copy a district record, the Superintendent or designee shall determine whether the request seeks release of a disclosable public record in the district's possession. The Superintendent or designee shall promptly inform the person making the request of his/her determination and the reasons for the decision. (Government Code 6253)

In unusual circumstances, the Superintendent or designee may extend the 10-day limit for up to 14 days by providing written notice to the requester and setting forth the reasons for the extension and the date on which a determination is expected to be made. Unusual circumstances include the following, but only to the extent reasonably necessary to properly process the request: (Government Code 6253)

1. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request
2. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request
3. The need for consultation, which shall be conducted with all practicable speed, with another agency (e.g., a state agency or city) having a substantial interest in the determination of the request or among two or more components of the district (e.g., two different school sites) with substantial interest in the request
4. In the case of electronic records, the need to compile data, write programming language or a computer program, or construct a computer report to extract data

If the Superintendent or designee determines that the request seeks disclosable public records, the determination shall state the estimated date and time when the records will be made available. (Government Code 6253)

Public records shall be open to inspection at all times during district office hours. Any reasonably segregable portion of a record shall be made available for inspection by any person requesting the record after deletion of the portions that are exempted by law. (Government Code 6253)

Upon request for a copy that reasonably describes an identifiable record, an exact copy shall be promptly provided unless it is impracticable to do so. (Government Code 6253)

The Superintendent or designee shall charge an amount for copies that reflects the direct costs of duplication. Written requests to waive the fee shall be submitted to the Superintendent or designee.

In addition to maintaining public records for public inspection during district office hours, the district may comply with public records requests by posting any public record on the district's web site and, in response to a public records request, directing the member of the public to the

location on the web site where the record can be found. However, if the member of the public is unable to access or reproduce the record from the web site, the district shall promptly provide an exact copy of the public record upon payment of duplication fees, if applicable, unless it is impracticable to provide an exact copy. (Government Code 6253)

If any person requests that a public record be provided in an electronic format, the district shall make that record available in any electronic format in which it holds the information. The district shall provide a copy of the electronic record in the format requested as long as the requested format is one that has been used by the district to create copies for its own use or for use by other agencies. (Government Code 6253.9)

The cost of duplicating an electronic record shall be limited to the direct cost of producing a copy of the record in electronic format. However, the requester shall bear the cost of producing the copy of the electronic record, including the cost to construct the record and the cost of programming and computer services necessary to produce the copy, under the following circumstances: (Government Code 6253.9)

1. The electronic record is one that is produced only at otherwise regularly scheduled intervals.
2. The request would require data compilation, extraction, or programming to produce the record.

Assistance in Identifying Requested Records

If the Superintendent or designee denies a request for disclosable records, he/she shall assist the requester in making a focused and effective request that reasonably describes an identifiable record. To the extent reasonable under the circumstances, the Superintendent or designee shall do all of the following: (Government Code 6253.1)

1. Assist in identifying records and information responsive to the request or the purpose of the request, if specified

If, after making a reasonable effort to elicit additional clarifying information from the requester to help identify the record, the Superintendent or designee is still unable to identify the information, this requirement shall be deemed satisfied.

2. Describe the information technology and physical location in which the records exist
3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought

Provisions of the Public Records Act shall not be construed so as to delay or obstruct the inspection or copying of public records. Any notification denying a request for public records shall state the name and title of each person responsible for the denial. (Government Code 6253)

Regulation BANNING UNIFIED SCHOOL DISTRICT
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