

POLICY

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8310 PUBLIC RECORDS

The Board of Education recognizes its responsibility to maintain the public records of this district and to make such records available to residents of New Jersey for inspection and reproduction. The Board of Education designates the Custodian of District Records on an annual basis.

Government Record or Record (N.J.S.A. 47:1A-1.1)

"Government records" or "records" pursuant to N.J.S.A. 47:1A-1.1 include any record that has been required by law to be made, maintained, or kept on file by the Board of Education, its officials, or its employees. Except as such records that may be exempted by law or this policy, a "government record" or "record" means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of the official business of the Board of Education or that has been received in the course of the official business of the Board of Education.

Board of Education meeting minutes may be inspected and copied as soon as they are prepared; unapproved minutes will be so labeled. Minutes of executive/closed session Board of Education meetings conducted in accordance with the Open Public Meetings Act will be preserved separately and will not be available for immediate public inspection. These minutes will be integrated with minutes of public meetings only after the matter discussed at the executive/closed session meeting has been made public.

A "government record" or "record" does not include inter-agency or intra-agency advisory, consultative, or deliberative material.

A "government record" or "record" does not include excluded information as outlined in N.J.S.A. 47:1A-1.1. The excluded

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information includes, but is not limited to, information which is deemed to be confidential as per N.J.S.A. 47:1A-1 et seq. Victims' records; trade secrets and proprietary commercial or financial information; any record within the attorney-client privilege; administrative or technical information regarding computer hardware, software and networks which, if disclosed, would jeopardize computer security; emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security; security measures and surveillance techniques and information which, if disclosed, would give an advantage to competitors or bidders are examples of excluded government records.

Information generated by or on behalf of the Board of Education or Board of Education employees in connection with any sexual harassment complaint filed within the Board of Education or with any grievance filed by or against an individual or in connection with collective negotiations, including documents and statements of strategy or negotiating position; information which is a communication between the district and its insurance carrier, administrative service organization or risk management office; information which is to be kept confidential pursuant to court order and that portion of most documents which discloses the social security number, credit card number, unlisted telephone number or driver license number of any person; and personnel and pension records of an individual, except the individual's name, title of position, salary, payroll record, length of service, date of separation and the reason therefore, the amount and type of pension he/she receives, and data, other than detailed medical or psychological information, that shows conformity with qualifications for employment and pensions are examples of excluded government records.

Test questions, scoring keys and other examinations **data pertaining to the administration of an examination** for employment **or academic examination; for pupil achievement;** information concerning individual pupil records ~~or information regarding~~ grievance or disciplinary proceedings against a pupil to the extent disclosure would reveal the identity of the pupil and all other information as defined **as not being a government record** in N.J.S.A. 47:1A-1 et seq.

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~~Public Right of Inspection, Copies and Fees (N.J.S.A. 47:1A-2 et seq.)~~

~~All government records or records as defined in N.J.S.A. 47:1A 1.1 will be deemed to be public records. Every citizen of this State also has the right, during such regular business hours and under the supervision of a representative of the Custodian of District Records, to copy such records by hand, and will also has the right to purchase copies of such records.~~

~~Copies of records will be made available upon the payment of fees as established below:~~

First page to tenth page	\$0.75 per page
Eleventh page to twentieth page	\$0.50 per page
All pages over 20	\$0.25 per page

~~(Plus postage if applicable)~~

~~If the Custodian of District Records finds there is no risk of damage or mutilation of such records and it would not be incompatible with the economic and efficient operation of the office and the transaction of public business therein, he/she may permit any citizen who is seeking to copy more than 100 pages of records to use his own photographic process. This process must be approved by the Custodian of District Records, upon the payment of a reasonable fee.~~

~~Records of Investigation in Progress (N.J.S.A. 47:1A-3 et seq.)~~

~~Records which are sought to be inspected, copied, or examined that pertain to an investigation in progress by the Board of Education and/or administration will be inspected, copied and/or examined pursuant to N.J.S.A. 47:1A-3.~~

~~Inspection, Examination and Copying (N.J.S.A. 47:1A-5 et seq.)~~

~~The Custodian of District Records will permit the **government** record to be inspected, examined, and copied pursuant to~~

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N.J.S.A. 47:1A-5 et seq. by any person during regular business hours.

Copy Purchase (N.J.S.A. 47:1A-5 et seq.)

~~If the Custodian of District Records can demonstrate that the actual costs for duplication of a government record exceed the Board of Education approved rates, the district is permitted to charge the actual cost of duplicating the record.~~

Except as otherwise provided by law or regulation, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be \$.05 per letter size or smaller, and \$.07 per legal size page or larger. If the school district can demonstrate that its actual costs for duplication of a government record exceed the per page rates, the district shall be permitted to charge the actual cost of duplicating the record. The actual cost of duplicating the record, upon which all copy fees are based, shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or overhead expenses associated with making the copy except as provided for in N.J.S.A. 47:1A-5.c.

Actual copy costs for special copies, such as color printing or blueprints copied within the school district, shall be calculated separately. Access to electronic records and non-printed materials shall be provided free of charge, but the district may charge for the actual costs of any needed supplies such as computer discs.

If the districts calculated per copy actual cost exceeds the enumerated rates set forth in J.J.S.A. 47:1A-5.b. the school district, if challenged, must demonstrate its actual costs are indeed higher than those enumerated rates and are therefore justified.

Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this policy is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an

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extraordinary expenditure of time and effort to accommodate the request, the district may charge, in addition to the actual cost of duplicating the record, a special service charge that will be reasonable and will be based upon the actual direct cost of providing the copy or copies. The Custodian of District Records will provide the requestor an opportunity to review and object to the charge prior to it being incurred.

The Custodian of District Records will permit access to a government record and provide a copy thereof in the medium requested if the district maintains the record in that medium. If the district does not maintain the record in the medium requested, the Custodian of District Records will either convert the record to the medium requested or provide a copy in some other meaningful medium. ~~To wit, documents may be electronically mailed (emailed) to the requestor and are subject to the copying fees outlined above.~~ If a request is for a record in a medium not routinely used by the district, not routinely developed or maintained by the district or requiring a substantial amount of manipulation or programming of information technology, the district may charge, in addition to the actual cost of duplication, a special charge that will be reasonable and based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the district or attributable to the district for the programming, clerical, and supervisory assistance required, or both. ~~Please note, OPRA does not allow for files to be created.~~

Immediate access ordinarily will be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.

The Custodian of District Records will adopt a form for the use of any person who requests access to a government record held or controlled by the district. The request form will include information in accordance with the requirements of N.J.S.A. 47:1A-5.f. Requests for access to a government record ~~will~~ **shall** be in writing and hand-delivered, ~~or~~ mailed,

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to the custodian. The custodian will also accept a request for access to a government record that is transmitted electronically. ~~or otherwise conveyed to the Custodian of District Records and t~~ The Custodian of District Records will promptly comply with a request in accordance with N.J.S.A. 47:1A-5.g.

Any officer or employee of the district who receives a request for access to a government record will forward the request to the Custodian of District Records or direct the requestor to the Custodian of District Records.

The Custodian of District Records will grant access to a government record or deny a request for access to a government record in accordance with N.J.S.A. 47:1A-5.i and as soon as possible, but not later than seven (7) business days after receiving the request, provided that the record is currently available and not in storage or archived.

The Custodian of District Records will post prominently in public view in the part of the office of the Custodian of District Records that is open to or frequented by the public a statement that sets forth in clear, concise and specific terms the right to appeal a denial of, or failure to provide, access to a government record by any person for inspection, examination, or copying or for purchase of copies thereof and the procedure by which an appeal may be filed.

Challenge to Access upon Denial (N.J.S.A. 47:1A-6)

A person who is denied access to a government record by the Custodian of District Records, at the option of the requestor, may institute a proceeding to challenge the Custodian of District Record's decision by filing an action in Superior Court or in lieu of filing an action in Superior Court file a complaint with the Government Records Council established pursuant to Section 8 of P.L.2001, c. 404 (C.47:1A-7). If it is determined that access was improperly denied, the court or agency head shall order that access be allowed. A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee. **A public official, officer, employee, or custodian who knowingly and willfully violates**

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N.J.S.A. 47:1A-1 et seq. and is found to have unreasonably denied access under the totality of the circumstances shall be subject to the penalties and disciplinary proceedings in accordance with N.J.S.A. 47:1A-11.

Government Records Council (N.J.S.A. 47:1A-7 et seq.)

The Board of Education and the Custodian of District Records will comply with the requirements and guidelines from the Government Records Council in accordance with N.J.S.A. 47:1A-7.

Common Right Law Right of Access (N.J.S.A. 47:1A-8)

Nothing contained in N.J.S.A. 47:1A-1 et seq. ~~will~~ **shall** be construed as limiting the common law right of access to a government record, including criminal investigative records of a law enforcement agency.

Construction with Other Laws (N.J.S.A. 47-1A-9 et seq.)

The provisions of this policy and N.J.S.A. 47:1A-1 et seq. ~~will~~ **shall** not abrogate any exemption of a public or government record from public access heretofore made pursuant to N.J.S.A. 47:1A-1 et seq.; any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any Federal law; Federal regulation; or Federal order.

The provisions of this policy and N.J.S.A. 47:1A-1 et seq. ~~will~~ **shall** not abrogate or erode any executive or legislative privilege or grant of confidentiality heretofore established or recognized by the Constitution of this State, statute, court rule or judicial case law, which privilege or grant of confidentiality may duly be claimed to restrict public access to a public or government record.

N.J.S.A. 10:4-14

N.J.S.A. 47:1A-1.1 et seq.; ~~47:3-16~~

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~~N.J.A.C. 6:3-6.1 et seq.~~

Adopted: 18 September 2009

Amended:

Formerly Policy 812.0 - District Records and Reports which
was:

Adopted 13 March 1990

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