

GUIDELINES FOR ACCESS TO PUBLIC RECORDS

I. Public Records Procedures

A. Definitions

1. “Authority” means any of the following having custody of a record: Section 19.32(1) of the Wisconsin Statutes includes the following in the definition of “authority”: an office, elected official, agency, board, committee, council, department or a formally constituted sub-unit of any of the above. School district employees are included in this statute.
2. “Legal custodian” means any position designated under Section II of the procedure otherwise designated by law to carry out responsibilities under this policy and the public records law.
3. “Record” means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristic, which has been created or is being kept by any authority. “Record” includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts.

“Record” does not include drafts, notes, preliminary computations, and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his/her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale or which are available for inspection at a public library.
4. “Requestor” means any person who requests inspection or copies of a record.

B. Custody and Delivery of Public Records

1. Except as provided under Section VI of this administrative procedure, each officer and employee of the School District of Waukesha shall safely keep and preserve all records from his/her predecessor or other person and required by law to be filed, deposited or kept in his/her office or which are in the lawful possession or control of which he/she or they may be lawfully entitled as such officers and employees.

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2. Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position becomes vacant, each such officer or employee shall deliver to his/her successor all records then in his/her custody. The successor shall receipt to the officer or employee, who shall file said receipt with the school district clerk. If a vacancy occurs before a successor is selected or qualified, such records shall be delivered to and receipted by the clerk, on behalf of the successor, and to be delivered to such successor upon the latter's election or appointment.

II. Legal Custodian

- A. On behalf of any school district authority identified in Section I (A-1) above, the superintendent of schools is designated as the legal custodian of records. The superintendent of schools may designate those district employees who have responsibility for maintaining specific district records at every district location as the legal custodian for keeping and preserving those records and providing them for public access.
- B. The legal custodian of records shall designate one or more deputies to act as legal custodian of such records in his/her absence or as otherwise required to respond to requests for records.
- C. The legal custodian shall have the full legal power to render decisions and carry out the duties of the authorities identified in Section I (A-1) above. The designation of a legal custodian does not affect the powers and duties of an authority under the public records law.

III. Public Records Notice

The district administrator of the School District of Waukesha shall inform any authority identified in Section I (A-1) of this administrative procedure and about the notice requirements in Section 19.33(4) and Section 19.34(1) and (2) of the Wisconsin Statutes. He/she shall assist any identified authority in meeting this authority's obligation under the provisions of the public record law.

IV. Public Access to Records and Fees

- A. Except as provided in Section VI of this administrative procedure, any person has a right to inspect a record or receive a copy of any record as provided in Section 19.35(1) of the Wisconsin Statutes.
- B. Records will be available for inspection and copying during all regular office hours.

- C. A requestor shall be permitted to use facilities comparable to those available to school district employees to inspect, copy and/or abstract a record.
- D. The legal custodian may require supervision of the requestor during inspection or may impose other reasonable restrictions on the manner of access to an original record, if the record is irreplaceable or easily damaged.
- E. A requestor shall be charged a fee for the cost of copying and locating records as follows:
 - 1. The fee for photo copying shall be twenty cents (\$.20) per page.
 - 2. If the form of a written record does not permit copying, the actual and necessary costs of photographing and photographic processing shall be charged.
 - 3. The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts, and audio or video tapes shall be charged.
 - 4. If mailing or shipping is necessary, the actual cost thereof shall be charged.
 - 5. There shall be no charge for locating a record unless the actual cost exceeds fifty dollars (\$50) in which case the actual cost shall be determined by the legal custodian and billed to the requestor.
 - 6. The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, whenever such an estimate exceeds five dollars (\$5).
 - 7. Elected officials and employees of the School District of Waukesha shall not be required to pay for those public records which they may reasonably require for the proper performance of their assigned duties.
 - 8. The legal custodian may provide a record without charge at a reduced charge where he/she determines that a waiver on a reduction of the fee is in the public interest.
- V. Access to Records
 - A. A request to inspect and/or copy a record shall be made to the legal custodian or his/her deputy. The request shall be deemed sufficient if it reasonably describes the record(s) which is (are) requested or the information which is requested. A request for a record without a reasonable description as to subject matter or date of the record does not constitute a reasonable request.

No request shall be refused because the person making the request is unwilling to be identified or to state the purpose of the request.

If the record is kept at a private residence or if security reasons or federal law so mandate, identification may be required.

Mail requests may not be denied unless a fee prepayment is required under Section E above.

- B. The legal custodian, upon receiving a request for a record, shall, as soon as practicable, and without delay, either fill the request or notify the requestor of the authority's denial.
- C. A request for a record may be denied as provided in Section VI below. Oral requests may be denied orally unless a denial for a written statement of the reasons denying the request is made by the requestor within five business days of the oral denial.

If a written request is denied in whole or in part, the requestor shall receive a written statement of the reasons for the denial. Written denials must include a statement informing the requestor that the denial may be reviewed by a court by mandamus under Section 19.37(1) of the statutes or upon application to the attorney general or the district attorney.

VI. Limitations on the Right to Access

- A. As provided by Section 19.36 of the Wisconsin Statutes, the following records are exempt from disclosure under these procedures:
 - 1. Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law. Any pupil record (educational records) are exempted as provided by Section 118.125 of the Wisconsin Statutes and PL90-247 (Privacy Rights of Parents and Students) of the federal laws.
 - 2. Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.
 - 3. Any records which are involved in considering the dismissal, demotion or discipline of an employee; conducting public business which requires a closed session for competition or bargaining reasons; considering the financial, medical, social or personal histories or disciplinary data of persons which would be likely to have a substantial adverse effect on their reputation; conferring with legal counsel concerning litigation in which any school district authority is likely to be involved; and/or considering confidential requests from the state or local ethics board.

4. Computer programs, although the material used as input for a computer program or the material provided as a product of the computer program is subject to inspection.
 5. A record or any portion of a record containing information qualifying as a common law trade secret.
- B. If a record contains information that may be made public and information that may not be made public, the authority having custody of this record shall provide the information that may be made public and delete the information that may not be made public from the record before release.
- C. A legal custodian may deny access to a record, in whole and in part, only if he/she determines that the harm to the public through disclosure outweighs the public benefit of access to the record. The legal custodian is authorized and encouraged to consult with the district's legal counsel in making such determinations. The legal custodian shall follow the procedures in Section V. (C) above and in Section 19.34(4) of the Wisconsin Statutes when access to a record in whole or part is denied.

VII. Destruction of Records

- A. All school district records shall be kept for a period of not less than seven years unless a shorter period is fixed by the Public Records and Forms Board under Section 16.61(3)(e) of the Wisconsin Statutes and except as provided in paragraph B below. This section does not apply to pupil records under Section 118.125 of the statutes.
- B. Any taped recording of a meeting by a governmental body, in Section 19.82(1) and (2) of the statutes may be destroyed no sooner than 90 days after the minutes have been approved and published when the purpose of the recording was to take minutes of the meeting.
- C. Prior to destruction of any records that are deemed by the legal custodian to have significant historical value, the Historical Society shall be notified at least 60 days in advance to determine if historical interest justifies preservation of such records. The historical society may, upon application, waive this notice.

VIII. Preservation of Records by Microfilm

The legal custodian may, subject to resolution of the board of education, keep and preserve records in his/her possession by means of microfilm or other photographic/electronic reproduction methods. Such records shall meet the standards of photographic reproduction set forth in Section 16.61(7) of the Wisconsin Statutes and shall be considered original records for all purposes. Such records shall be preserved along with other records and files of the School District of Waukesha and shall be open to public inspection and copying in accordance to the provisions of the Wisconsin Statutes and this administrative procedure.

Adopted: March 9, 1983
Amended: September 8, 1993
Last Review Date: October 2001