



Administrative Regulation 7611

REQUESTS FOR PUBLIC RECORDS

Responsible Office: Office of the General Counsel

PURPOSE

This administrative regulation establishes the guidelines for processing public records requests under the Nevada Public Records Act ("NPR") in the Washoe County School District ("District").

REGULATION

1. This administrative regulation and the corresponding Board policy was established to:
 - a. Increase public access to District information and increase accountability and transparency to the public; and
 - b. Promote full access to the District's public records in order to:
 - i. Assure continuing public confidence in government;
 - ii. Prevent unreasonable invasions of privacy;
 - iii. Protect public records from damage or disorganization; and
 - iv. Prevent excessive interference with essential government functions.
2. Definitions.
 - a. "Public records" are any records prepared, used or maintained by the District in the course of performing District functions such as all documents, papers, letters, bound ledger volumes, maps, charts, blueprints, drawings, photographs, films, newspapers received pursuant to NRS 247.070, recorded media, financial statements, statistical tabulations and other documentary materials or information, regardless of physical form or characteristic. (NAC 239.101)
 - b. "Non-public records" are published materials printed by a governmental printer, worksheets, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a local governmental entity. (NAC 239.051)
 - c. Confidential public records.
 - i. Confidential records are those declared by law in NRS 239.010(1);
 - ii. Confidential records are those not specified to be confidential per NRS 239.010(1), but, per a "Balancing Test," where the District balances the interests and justifications of the agency, or the public

in general, in maintaining the confidentiality of the document against the interest or need of the public to review the document;

- iii. Confidential records are those not specified to be confidential per NRS 239.010(1), but per the "Deliberative Process Privilege," where District decision-makers must engage in the frank exchange of opinions and recommendations necessary to the formulation of policy without being inhibited by fear of later public disclosure, the records that reflect the District's deliberative or decision-making process; and/or
- iv. Confidential employee records are those not specified in NRS 239.010(1), but the District, as a subdivision of the State of Nevada, adopts the provisions codified in Nevada state laws and regulations related to the confidentiality of employee records, NRS Chs. 284 and 288 as well as NAC Chs. 284 and 288.

3. Records official.

- a. For purposes of administration of this regulation, the Superintendent hereby appoints the Office of the General Counsel (OGC) as the appointed "records official."
- b. The OGC shall comply with related Board Policies and District Regulations for fulfilling public record requests, and it may adopt procedures for efficient implementation of the Board Policy and this regulation as deemed necessary.
- c. The District will post on its website the appropriate contact information to submit a public records request to the records official.

4. Form for Request.

- a. The District's website provides public access to a large number of records and data. Before making a request, the public is asked to conduct a search of the District's website.
- b. Requests for a public record of the District shall be made to the District's OGC.
- c. The District adopts Administrative Form 7612 in order for a member of the public to make a public records request to the District.
- d. The District will respond to verbal requests and requests not on Form 7612, but the request must identify the following:
 - i. Contact information - name, address, phone number, e-mail and/or fax number - of the person submitting the request;
 - ii. The date the request is submitted to the District;

- iii. A description of the public record that is sufficient to identify the record;
- iv. Type of access requested: inspect (view only), copy, or receive a copy of the public record;
- v. Type of medium requested: paper, electronic, certified, etc.
- vi. Preferred delivery: by mail, facsimile, e-mail, etc.
- vii. An affirmation that the person understands:
 - 1. There may be a fee to receive a copy of a public record, which must be paid in full before receiving the copy; and
 - 2. If the fee is related to an "extraordinary use fee" in Board Policy, a written cost estimate will be produced.
- e. The Freedom of Information Act (FOIA) does not apply to the District. The District will treat a FOIA request as a request under the NPRA, NRS 239, NAC 239, and appropriate Board Policies and District Regulations.

5. Requests received.

- a. All requests for public records received by the District shall be forwarded to the OGC for processing.
- b. Readily available records. The District will maintain frequently requested records in a readily available format.
- c. Assisting the requester. If a request is voluminous, the records official will assist the requester in narrowing the request, but the records official shall not inquire into the purpose for the information. If the information request is not clear, the records official may ask for clarification of the request.
- d. Locating records. The District will make a reasonable effort to search for and locate the requested records.

6. Responding to a request.

- a. Disclosure.
 - i. The District shall disclose public records and will not provide confidential public records.
 - 1. The District may not dictate the medium in which it will provide a copy of a public record.
 - 2. Requests Requiring Programming or Manipulation
 - a. The District shall provide the requestor a written statement if the District determines that:

- b. Responding to a request for information will require programming or data manipulation; and
 - c. Compliance with the request is not feasible or will result in substantial interference with operations.
 - d. The written statement shall include a statement that the information is not available in the requested form and a description of the form.
 - ii. Inspection shall occur at a time mutually agreed upon by the requester and the District.
 - 1. The District will have an employee observe the inspection or copying of records by the requester to the extent necessary to prevent the records from being stolen, altered, or destroyed.
 - iii. The District will only hold copies of requested records for 30 days.
- b. Redaction.
 - i. When a record contains confidential information, the District may redact, delete, conceal, or separate confidential information. The District shall provide a notice for the partial denial that contains:
 - 1. A description of the redacted information, and
 - 2. The legal citation for the basis of denying access to the information.
 - ii. In the event the information that remains after redaction would be of little or no value to the requester, the agency may deny release of the record in whole.
- c. Denial.
 - i. If a person requests to inspect, copy or receive a copy of a public record that does not exist, the District will deny the request.
 - ii. The District is not required to create a public record to satisfy the request.
 - iii. A request for general information, such as to answer a question, is not a public records request and is not subject to the NPRA. The District is under no obligation conduct research, fill out checklists, or answer questions.
 - iv. If a person requests to inspect, copy, or receive a copy of a non-existent, non-public record, or confidential public record, the District will deny the request and provide a notice that states:

1. A general factual description of the record withheld, and
2. A specific explanation for nondisclosure that includes legal citations and/or authority.

7. Fees.

- a. The District may charge a fee for providing a copy of a public record. Fees shall be reasonable and not exceed the actual cost to provide the record. A list of the fees charged for copies of public records shall be posted at the District's Central Administration Building as well as its website.
- b. An extraordinary use fee, in addition to other noticed fees, may be charged when extraordinary use of staff or technological resources is required to fulfill the request.
 - i. Extraordinary use fees will be assessed for requests that exceed two hours of staff time to fulfill due to extraordinary use defined below.
 - ii. Extraordinary use fees shall be based on the cost that the District actually incurs for the extraordinary use of its staff or technological resources. However, the total costs for extraordinary use fees cannot exceed \$.50 per page.
 - iii. "Extraordinary use" is defined as:
 1. A voluminous quantity of records;
 2. The District is required to review a large number of records to locate the records requested;
 3. Redacting confidential information that the requester is not entitled to inspect from information that the requester is entitled to inspect requires extensive editing; and/or Board Policy 7610 Public Records Requests (Page 3)
 4. Extracting information that the requester is entitled to inspect requires computer programming.
 - iv. "Technological resources" refers to any information, information system, or information service acquired, developed, operated, maintained, or otherwise used by the District.
 - v. The determination to charge for the extraordinary use of District personnel or resources shall be made by the OGC on a case-by-case basis. In making this determination, the OGC shall remain viewpoint neutral as to the requestor and shall consider the costs

associated with the extraordinary personnel and/or resources required to process the request.

- vi. Upon the determination that the fee should be applied, the District shall provide written notice to the requestor:
 - 1. That the use of extraordinary District personnel or resources will be required to process the request;
 - 2. Of the fee to process the request which fee shall be reasonable, based upon the actual cost incurred by the District to process the request, and shall not exceed fifty cents (\$0.50) per page;
 - 3. If the number of pages of responsive records is initially unknown, as with emails, it shall be presumed for fee calculation purposes that each record (email) is a minimum of one page;
 - 4. Requiring a deposit of at least fifty percent (50%) of the total fee before processing the request and preparing the records for dissemination.

8. Request Deadlines.

- a. By the end of the fifth business day after a public records request is received by the District, the OGC shall respond in writing:
 - i. Disclosing the entire public record or a redacted version of the public record; or
 - ii. Extending the time for potential disclosure by providing a date when the record may be available, if the request is voluminous, time consuming, or comes from an off-site area separate from the OGC; or
 - iii. Deny the request.

9. General Processing Guidelines.

- a. Upon receipt of a request for public records, the OGC shall request from the Office or Department within the District that maintains the requested record to provide all applicable records or provide a date when the applicable Department/Office will be able to make the record available for disclosure/inspection.
- b. Requests that may be filled in less than five days shall be processed in the order in which received by the OGC.
- c. The OGC shall make all reasonable efforts to fulfill a request that takes longer than five days, but any request that takes longer than five days to

fulfill shall be done so as soon as reasonably possible and not in relationship of the receipt of other requests.

- d. The OGC shall maintain a log of all public records requests received and processed, including if a fee was charged in accordance with state law (NRS 239.055) for the extraordinary use of personnel resources, and an estimate of the collective amount of personnel time spent to process the request.
- e. The District shall maintain public records in accordance with the Retention/Destruction schedules as established by the Nevada State Library and Archives Local Government Records Management Program.

10. Adoption.

- a. The District hereby adopts by reference the *Nevada Public Records Act: A Manual for State Agencies*, (Manual) 2016 edition, and any subsequent edition issued by the State Library, Archives and Public Records, as a guide for processing public records requests.
- b. To the extent the Manual conflicts with Board Policy or District regulation, the Board Policy or District regulation supersedes the Manual.

DESIRED OUTCOMES

- 1. Through this administrative regulation, the District:
 - a. Shall establish and maintain consistent protocols for the processing of public records requests; and
 - b. Shall be open and transparent with the public related to governance and operations.

IMPLEMENTATION GUIDELINES & ASSOCIATED DOCUMENTS

- 1. This administrative regulation reflects the goals of the District's Strategic Plan and aligns/complies with the governing documents of the District, to include:
 - a. Board Policy 7610, Public Records Requests
 - b. Administrative Regulation 7233, E-Discovery: Data Compliance, Search, and Investigation
 - c. Board Policy 5000, Student Records and Information, Administrative Regulation 5005, Student Educational Records, and any other associated regulations and procedures
 - d. Board Policy 4125, Employee Records and Information, and any associated regulations and procedures
- 2. This administrative regulation aligns with Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC), to include:

- a. Chapter 239, Public Records
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- 3. This administrative regulation complies with federal laws and regulations, to include:
 - a. Freedom of Information Act

REVIEW AND REPORTING

- 1. This document shall be reviewed as part of the bi-annual review and reporting process, following each regular session of the Nevada Legislature. The Board of Trustees shall receive notification of any required changes to the associated policy.
- 2. Administrative regulations, and/or other associated documents, will be developed as necessary to implement this document. The Board of Trustees and Superintendent shall receive notification of the adoption and/or revision of any associated administrative regulations.

REVISION HISTORY

Date	Revision	Modification
4/19/2019	1.0	Adopted