

## **ACCESS TO PUBLIC RECORDS PROCEDURES**

### **DEFINITIONS**

“Authority” means any of the following having custody of a record: the School District of Bayfield Board of Education and officer, and all Board committees or other authorities created by the Board.

“Legal custodian” means any person or position designated under “LEGAL CUSTODIANS” or otherwise designated by law to carry out responsibilities under this policy and the Wisconsin Public Records Law.

“Record” means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by the authority. “Record” includes, but is not limited to: handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks. “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.

“Requester” means any person who requests inspection or copies of a record.

“Personally identifiable information” means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

“Person authorized by the individual” means the parent, guardian or legal custodian of a child or the guardian of an individual adjudged incompetent, the personal representative or spouse of an individual who is deceased or any person authorized, in writing, by an individual to exercise his/her rights to challenge personally identifiable information, or to inspect, copy or challenge public records.

“Records series” means records that are arranged under a manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity, or have a particular form.

“Privacy advocate” means the person designated by the State Privacy Council.

## **CUSTODY AND DELIVERY OF OFFICIAL PROPERTY**

Except as provided under “DESTRUCTION OF RECORDS”, each officer and employee of the school district shall safely keep and preserve all records received from his/her predecessor or other persons and required by law to be filed, deposited, or kept in his/her office, or which are in the lawful possession or control of the officer or employee, or his/her deputies, or to the possession or control of which he/she or they may be lawfully entitled as such officers or employees.

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

## **LEGAL CUSTODIANS**

Each elected school district official is the legal custodian of his/her records and the records of his/her office, but the official may designate an employee of the school district to act as legal custodian of such records. On behalf of each school district authority identified in “DEFINITIONS, ‘Authority’”, above, the following positions are designated as custodians of records:

1. The District Administrator shall serve as custodian of all District personnel records.
2. The District Administrator, or in his/her absence, the Finance Manager, shall Serve as custodian of all other records maintained by the District (excluding pupil records).

Each legal custodian shall have full legal power to render decisions and carry out the duties of the authorities identified under “DEFINITIONS, ‘Authority’”. The designation of a legal custodian does not affect the powers and duties of an authority under the Wisconsin Public Records Law.

The legal custodians shall receive training on their duties and responsibilities relating to the collection, maintenance, use, providing access to, sharing or archiving record information, including personally identifiable information. They shall also be informed of their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws.

The legal custodian, acting on behalf of an authority that maintains personally identifiable information that may result in an adverse determination about any

individual's rights, benefits, or privileges, shall do at least one of the following regarding the information:

1. Collect the information directly from the individual.
2. Verify the information, if collected from another person.

## **PUBLIC RECORDS NOTICES**

The legal custodians shall inform each authority identified in "DEFINITIONS, 'Authority'" about the notice requirements in section 19.33(4) and section 19.34(1) of the state statutes and shall assist each identified authority in meeting the authority's obligations under those statutes.

The legal custodian shall prominently display; and make available for inspection and copying at all district offices for the guidance of the public, a notice containing a description of the district's organization and the established times and places, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records, make requests for records or obtain copies of records and the cost thereof.

## **PUBLIC ACCESS TO RECORDS: FEES**

Except as provided by applicable law and as described in "LIMITATIONS ON PUBLIC ACCESS" below, any person has a right to inspect a record and to make or receive a copy of any record as provided in section 19.35(1) of the State Statutes.

Records will be available for inspection and copying during all regular office hours.

A requester shall be permitted to use facilities comparable to those available to school district employees to inspect, copy, or abstract a record.

The legal custodian may require supervision of the requester 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.

A requester shall be charged a fee for the cost of copying and locating records as follows:

1. The fee for photocopying shall be 15 cents for each side of a page; such cost and all future costs shall not exceed the actual, necessary, and direct costs of reproduction.
2. If the form of a written record does not permit copying, the actual and necessary cost 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 audiotapes or videotapes shall be charged.
4. If mailing or shipping is necessary, the actual cost thereof shall also be charged.
5. There shall be no charge for locating a record unless the actual cost thereof exceeds \$50.00 in which case the entire actual cost shall be imposed upon the requester.
6. The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.
7. Elected officials and employees of the school district shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
8. The legal custodian may provide copies of a record without charge or at a reduced charge where he/she determines that waiver or reduction of the fee is in the public interest.
9. The legal custodian may not sell or rent a record containing an individual's name or address of residence, unless specifically authorized by state law. The collection of fees as outlined above is not a sale or rental under these procedures.

## **ACCESS PROCEDURES**

### Public Access to Records

1. A request to inspect or copy a record shall be made to the legal custodian. The request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. No request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request, provided that if the record is kept at a private residence or if security reasons or federal law so dictate, identification may be required. Otherwise appropriate mail requests may not be denied unless a fee prepayment is required under "PUBLIC ACCESS TO RECORDS: FEES", above.
2. Each legal custodian, upon request for any record, shall, as soon as practicable and without delay, either fill or deny the request, in whole or in part.
3. A request for a record may be denied as provided in "LIMITATIONS TO PUBLIC ACCESS" below. Oral requests may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester

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

#### Access to Personally Identifiable Information by the Subject or Such Information:

1. Upon request, any individual or person authorized by the individual, may inspect any record containing personally identifiable information pertaining to the individual that is maintained by an authority except as follows:
  - a. Personally identifiable information in a case or action;
  - b. Any record containing personally identifiable information if a specific statute prohibits the disclosure of the record to the individual s.19.35(1);
  - c. Any record that is part of a records series as defined in s.19.62(7) that is not indexed, arranged, or automated in a way that the record can be retrieved by the authority maintaining the records series by use of an individual's name, address, or other identifier;
  - d. Personally identifiable information which relates to investigation, enforcement action, prosecution, or other action.
2. Any individual or person authorized by the individual may make or receive a copy of the above information in a form which is comprehensible to the individual or person authorized by the individual. A fee may be imposed by the authority in accordance with established procedures.
3. Except as governed by state or federal law, or when a record has been transferred to an archival depository under s.16.61(3), any individual or person authorized by the individual may challenge the accuracy of a record containing personally identifiable information pertaining to the individual by notifying the authority in writing of the challenge. After receiving the notice, the authority shall do one of the following:
  - a. Correct the information
  - b. Allow the individual or person authorized by the individual to file a concise statement setting forth the reasons for the individual's disagreement with the disputed portion of the record.

#### **LIMITATION ON PUBLIC ACCESS**

As provided by section 19.36 of the state 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. For example, pupil records are exempted as provided by section 118.125 of the state statutes and certain library records by section 43.30 of the state statutes.
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. Computer programs except for the material used as input for a program or the material produced as a product of a program, except as otherwise provided by applicable law.
4. A record or any portion of a record containing information qualifying as a common law trade secret.

If a record contains information that may be made public and information that may not be made public, the legal custodian shall provide the information that may be made public and delete the information that may not be made public from the record before release.

A legal custodian may deny access to a record, in whole or in part, only if he/she determines that the harm to the public interest resulting from disclosure outweighs the public interest in full access to the requested 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 "ACCESS PROCEDURES, Public Access to Records" and in section 19.35(4) of the state statutes when the access to a record in whole or in part, is denied.

Notwithstanding any other law, the privacy advocate appointed by the State Privacy Council may inspect any record in the custody of an authority that is not open to inspection if all of the following apply:

1. The disclosure is necessary for the privacy advocate to discharge his/her duties prescribed by law;
2. The record is disclosed only in a meeting closed to the public; and

The privacy advocate has entered into an agreement with the authority that specifies the content of the record to be disclosed and the terms of the disclosure, including any reasonable requirements placed on the privacy advocate to maintain the confidentiality of the disclosed record.

## **DESTRUCTION OF RECORDS**

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 state statutes and except as provided in the following paragraph. This section does not apply to pupil records under section 118.125 of the state statutes.

Any taped recording of a governmental meeting of the school district may be destroyed, erased or re-used no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

No authority may destroy any record at any time after the receipt of a request for inspection or copying of the record until after the request is granted or until at least 60 days after the date that the request is denied or, if the requester is an incarcerated person, until at least 90 days after the date that the request is denied. Refer to 19.35(5) of the state statutes (Records Destruction).

Prior to destruction of any records, the State Historical Society shall be notified at least 60 days in advance to determine if historical interest justifies preservation of such records. The State Historical Society may, upon application, waive this notice.

#### **PRESERVATION OF RECORDS BY MICROFILM**

The legal custodian may, pursuant to a separate Board resolution, keep and preserve public records in his/her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in section 16.61(7) of the state statutes, and shall be considered original records for all purposes. Such records shall be preserved along with other files of the school district and shall be open to public inspection and copying according to the provisions of state law and these procedures.

LEGAL REFERENCE: Chapter 16, Wisconsin State Statutes  
Chapter 19, Wisconsin State Statutes  
Chapter 118, Wisconsin State Statutes

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