

**ACCESS TO OFFICE OF EDUCATION RECORDS****DEFINITION OF PUBLIC RECORDS**

The California Public Records Act (“CPRA”) broadly defines “public records” to include any writing containing information relating to the conduct of the public’s business prepared, owned, used or retained by any local agency regardless of physical form or characteristics. Every employment contract of an employee is a public record.

The CPRA broadly defines “writing” to include “handwriting, typewriting, printing, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.”

**PENALTIES FOR CRIMES RELATING TO PUBLIC RECORDS**

In accordance with the CPRA, it is a crime punishable by imprisonment for any officer having the custody of any record, map book, paper, or proceeding of any court filed or deposited in any public office, or other person not an officer, to steal, remove, secret, willfully destroy, mutilate, deface, alter or falsify the whole or any part of such record or permit any other person to do so. In order for a record to be protected under the Government Code, it must qualify as a public record. Both confidential public records and public records open for inspection are entitled to protection under the law. Public records shall only be disposed of in accordance with the requirements of state law, the regulations of the Superintendent of Public Instruction, local board policies, and administrative regulations.

**TYPES OF PUBLIC RECORDS**

Within the California Public Records Act’s broad definition above, public records prepared, received, or retained by the Humboldt County Office of Education include the following special types:

1. Student Records

Student records are defined in part as any item of information directly related to an identifiable student other than directory information. This includes information maintained by the County Superintendent of Schools, a school district, or required to be kept by an employee in the performance of the employee’s duties. This applies whether it is recorded by hand, print, tapes, film, microfilm, or other means. Both federal and state law and

regulation generally protect student records from public disclosure, but also guarantee access to them by parents and/or guardians.

Student records do not include informal notes related to a pupil compiled by a school officer or employee, which remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. Such informal notes remain public records, however, and are generally exempt from public disclosure.

2. Administrative Records

Records of the County Superintendent of Schools are defined as meaning all records, maps, books, papers, and documents of the Humboldt County Office of Education required by law to be prepared or retained. Additionally, office records kept by the County Superintendent of Schools because they are necessary or convenient to the discharge of his/her official duty are public records.

**ACCESS TO RECORDS**

Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the state. The California Public Records Act was intended to provide access to governmental records while protecting the individual's right to privacy. Agendas of public meetings, agenda packets, and any other writings, when distributed to all or a majority of the members of the County Board of Education or Personnel Commission by a person in connection with a matter subject to discussion or consideration in open session at a public meeting are public records and shall be made available upon request.

1. Exemption of Particular Records from Disclosure

Any agency shall justify withholding any record by demonstrating that the record is exempt under express provisions of the California Public Records Act, or that on the facts of the particular case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

The following records are expressly exempted from disclosure under the California Public Records Act. Refer to the Act for additional exemptions.

- A. Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business. This is provided that the public interest in withholding such records clearly outweighs the public interest in disclosure.

## Community Relations

## Administrative Regulation 1340(c)

- B. Records pertaining to pending litigation to which the public agency is a party or to certain claims until such litigation or claim has been finally adjudicated or otherwise settled.
- C. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
- D. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination.
- E. The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all the property has been acquired or all of the contract agreement obtained.
- F. Records the disclosure of which is exempted or prohibited according to provisions of federal or state law. This includes, but is not limited to, written communications that are privileged.
- G. Petitions for school district reorganization or for filling governing board vacancies.
- H. All registration and circulation records of any library supported by public funds.
- I. Computer software developed by the Humboldt County Office of Education.
- J. 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 all appropriate individuals when staff are reimbursed for business use of personal cellular phones.
  - d. To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except 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.

e. 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

K. The residential street address, work address, or school address of participants in the Secretary of State's Safe at Home program for victims of domestic abuse or stalking.

L. Unless otherwise authorized or required by law, information regarding an individual's citizenship or immigration status or religious beliefs, practices, or affiliation shall not be disclosed to federal government authorities

M. The minute book of closed sessions of the County Board of Education. Any Social Security number/s contained in any record shall be redacted before disclosing it to the public pursuant to the California Public Records Act.

2. Subpoena or Court Order for Records

A lawfully issued subpoena (e.g., subpoena duces tecum or deposition subpoena) or a court order may be served on the custodian of records requiring the production of certain records. The exact records to be produced must be specified in the subpoena or in the affidavit or declaration served with the subpoena. Any subpoena should be reviewed by the Humboldt County Office of Education's legal counsel.

3. Student Records

The provisions of the Education Code shall prevail over the provisions of the California Public Records Act to the extent that they may pertain to access to student records. Access to pupil records shall be in accordance with Education Code sections to ensure the confidentiality of the records. The procedure for access to pupil records is specified in the California Code of Regulations.

Student records of the Humboldt County Office of Education include records of an identifiable student in the schools or programs operated by the County Superintendent of Schools.

The grades, diploma, or transcripts of a pupil may be withheld from a pupil and his/her parent or guardian under specified conditions after affording the pupil due process rights.

### **INSPECTION OF RECORDS AND REQUESTS FOR COPIES**

Public records are open to inspection at all times during Office of Education office hours. Any reasonably segregable portion of a record shall be made available for inspection by every person requesting the record after deletion of the portions that are exempted by law.

Any person may submit a written request for a copy of any Office of Education record open to the public and not exempt from disclosure. The requestor shall provide his/her name and home mailing address for request processing purposes.

Within 10 days of receiving a request for a copy of records, the Superintendent or designee shall determine whether the request seeks release of copies of disclosable public records in the Office of Education's possession. The Superintendent or designee shall promptly inform the person making the request of his/her determination and the reasons for the decision.

In unusual circumstances, the Superintendent or designee may extend the 10-day limit for up to 14 days by providing written notice to the requestor 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:

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 having a substantial interest in the determination of the request or among two or more components of the Office of Education having substantial subject matter interest therein

4. The need to compile data, to write programming language or a computer program, or to 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.

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.

The Superintendent or designee may charge an amount for copies that reflects the direct costs of duplication. 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 requestor 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:

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 requestor to help identify the record, the Superintendent or designee is still unable to identify the information, this requirement will 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.

**FORMS FOR RESPONSE TO REQUEST FOR COPY OF RECORDS**

A subpoena or written request for records received by an officer or employee of the County Superintendent of Schools shall be processed by the designated custodian of records.

**Regulations for Inspecting and Receiving a Copy of an Identifiable Public Record from the Humboldt County Office of Education**

1. Visible Inspection Only

A person may inspect any public record not exempted by provisions of the California Public Records Act with adequate prior notice. Persons are requested to make an appointment through the County Superintendent's Office to inspect any identifiable public record to enable staff to direct the request to the appropriate office, locate the desired record/s, and schedule necessary assistance.

2. Requesting Copies of a Public Record

A person may receive a copy of any nonexempt identifiable public record upon payment of a fee for direct costs of duplication or applicable statutory fee in accordance with the California Public Records Act. (Government Code Section 6250 et. seq.) The minimum cost of standard copies is established on a per page basis, plus applicable sales tax. Following is the process for requesting a copy of a public record.

The requestor shall hand deliver or mail a written request identifying the public record to the office of the County Superintendent of Schools. (Note: e-mail does not constitute a "written request.") The requestor shall include the name and return mailing address for copy distribution. Requestors are asked to include in the written request as much information as possible to facilitate identification and location of the public record, e.g., date/s, topic, name/s, pages. Include a return address for notification of the determination on the request.

Staff shall make a reasonable effort to assist the requestor to identify the record/s and information that are responsive to the request or to the purpose of the request. Staff shall describe the information technology and physical location in which the records exist. Staff shall provide suggestions for overcoming any practical basis for denying access to the records or information sought.

If the request is for agendas, agenda packets, or other writings distributed to members of the County Board of Education on matters subject to discussion or consideration at a public meeting or for the mailed notice of every regular and special meeting of the County Board of Education pursuant to the Ralph M. Brown Act, the request shall be processed by the County Superintendent of Schools as custodian of the records or his/her designee. The request for such records must be renewed annually.

If the request is for agenda, agenda packets, or other writings distributed to members of the Personnel Commission on matters subject to discussion or consideration at a public meeting pursuant to the Ralph M. Brown Act, the request may be processed by the Coordinator of Personnel Services.

Within 10 calendar days after receipt of the request, the Humboldt County Office of Education will send official notification of the determination whether to comply with the request and specify any conditions and the amount of the direct cost or fees required. If unusual circumstances create a need for an extension of time (maximum 14 calendar days) reasonably necessary for the proper processing of the particular request, the County Superintendent of Schools or his/her designee will send the requestor written notice of the reasons for the extension and the date a determination is expected to be dispatched. Any notification of denial of a request for records shall include a statement of the reason/s for the denial. Upon receipt of the payment, an exact copy will be made unless impracticable to do so. An identifiable public record not exempt from disclosure that is maintained in an electronic format shall be made available in an electronic format when requested by any person subject to specified restrictions in Government Code Section 6253.9. The County Superintendent of Schools or his/her designee shall make the information available in any electronic format in which it holds the information. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.



The requestor shall bear the cost of producing a copy of an electronic record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

The County Superintendent of Schools would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

1. The request would require data compilation, extraction or programming to produce the record.
2. If a record is no longer available in an electronic format, the County Superintendent is not required to reconstruct it in an electronic format.
3. If the request is for information in other than electronic format, and the information also is in electronic format, the County Superintendent of Schools or his/her designee may inform the requestor that the information is available in electronic format.

Provisions of the Public Records Act shall not be construed so as to delay access for purposes of inspecting records open to the public. Any notification denying a request for public records shall state the name and title of each person responsible for the denial.