

## **SCHOOL DISTRICT OF NEW LONDON**

### **ADMINISTRATIVE GUIDELINE 823 - ACCESS TO PUBLIC RECORDS**

#### **A. Definitions:**

1. "Authority" means any of the following having custody of a record: the School Board, committees, the Board President, Vice President, Clerk and Treasurer, other school officials and subunits of the Board.
2. "Legal Custodian" means any person or position designated in Section C or otherwise designated by law to carry out responsibilities under Board policy and these procedures and 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 characteristics, which has been created or is being kept by an 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:
  - a. 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;
  - b. Materials which are purely the personal property of the custodian and have no relation to his or her office;
  - c. Materials to which access is limited by copyright, patent or bequest; and,
  - d. 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. "Local public offices within the district" include: Board members, District Administrator, Director of Business and Human Resource Services, Director of Teaching and Learning, Director of Pupil Services, Principals, Assistant Principals.

#### **B. Legal custodians.**

1. The District Administrator has been designated as the legal custodian of records on behalf of any District authority identified in Section A, 1 above.

2. The Director of Business and Human Resource Services is designated as the deputy to act as legal custodian of records maintained in a publicly owned or leased building in the absence of the legal custodian or as otherwise required to respond to requests for records.
  3. The legal custodian(s) has the full legal power to render decisions and carry out the duties of the authorities identified in Section A, 1. The designation of a legal custodian does not affect the powers and duties of an authority under the public records law.
  4. The legal custodian of records and other employees involved in collecting, maintaining, using, providing access to, sharing or archiving record information will receive training on their duties and responsibilities relating to the collection, maintenance, use, providing access to, sharing or archiving record information. They will also be informed of their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws.
- C. Public records notice. The District Administrator will provide the notices to the public and employees as required by state law.
- D. Public access to records and associated fees.
1. Except as provided in Section G, any person has a right to inspect a record and to make or receive a copy of any records as provided in state law. (Legal custodians should have access to and read Section 19.35 of the state statutes.)
  2. Records will be available for inspection and copying during all regular office hours.
  3. A requestor will be permitted to use facilities comparable to those available to District employees to inspect, copy, or abstract a record.
  4. 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.
  5. A requestor will be charged a fee for the cost of copying and locating records as follows:
    - a. The fee for photocopying will be a minimum of 15 cents per page.
    - b. If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing will be charged.

- c. 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 videotapes will be charged.
- d. If mailing or shipping is necessary, the actual cost thereof will also be charged.
- e. There will be no charge for locating a record unless the actual cost thereof exceeds \$50.00 in which case the actual cost will be determined by the legal custodian and billed to the requestor.
- f. The legal custodian will estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.
- g. Elected officials and employees of the District will not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- h. 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.
- i. The legal custodian may not sell or rent a record containing an individuals' 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.
- j. If the requestor is a prisoner or is a person confined in a federal correctional institution located in Wisconsin, and he/she has failed to pay any fee that was imposed for a request made previously by the requestor, the legal custodian may require prepayment both of the amount owed for the previous request and the amount owed for the current request.

E. Access procedures.

- 1. A request to inspect or copy a record will be made to the legal custodian or deputy. The request will 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. However, if the record is kept at a private residence or if security reasons or federal law so dictate, identification may be required. Mail requests may not be denied unless a fee prepayment is required under Section E(5)(f).

2. Each legal custodian, upon request for any record, will, as soon as practicable and without delay, either fill the request or notify the requestor of the authority's denial. Record requests will be approved or denied consistent with legal requirements and these procedures. If the legal custodian decides to permit access to certain types of records of employees or individuals who hold a local public office (e.g., records containing information related to an employee created or kept as a result of an investigation into a disciplinary matter; records obtained through a subpoena or search warrant), the following actions will be taken before the records are released to the public:
  - a. The legal custodian will give the appropriate notice to the record subject; and,
  - b. The record subject will be afforded the rights outlined in state law.
3. A request for a record may be denied as provided in Section F. Oral requests may be denied orally unless a demand 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 will 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 S. 19.37(1) of the statutes, or a district attorney.

F. Limitations on the right to access.

1. As provided by state law, the following records are exempt from disclosure under these procedures:
  - a. Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law. Student records are exempted as provided by section 118.125 of the statutes.
  - b. 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.
  - c. Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.
  - d. A record or any portion of a record containing information qualifying as a common law trade secret.

- e. Unless access is specifically authorized or required by statute, records containing the following information:
  - i. Information relating to the current investigation of a possible criminal offense or possible misconduct connected with employment by an employee prior to disposition of the investigation.
  - ii. Information pertaining to an employee's employment examination, except an examination score if access to that score is not otherwise prohibited.
  - iii. Information relating to one or more specific employees that is used for staff management planning, including performance evaluations, judgments, or recommendations concerning future salary adjustments or other wage treatments, management bonus plans, promotions, job assignments, letters of reference or other comments or ratings relating to employees.
  - iv. The home address, home electronic mail address, home telephone number, or social security number of an employee or an individual who holds a local public office, unless the employee or individual authorizes the authority to provide access to such information. This does not apply to the home address of a school board member.
  - v. A record prepared or provided by an employer performing work on a public works project or on which the district is otherwise required to pay prevailing wages, if that record contains the name or other personally identifiable information relating to an employee of that employer, unless the employee authorizes the authority to provide access to that information. "Personally identifiable information" does not include an employee's work classification, hours of work, or wage or benefit payments received for work on such a project.
- f. Except with respect to a final candidate, any record related to the application that may reveal the identity of the applicant if the applicant indicates in writing that the applicant does not wish the authority to reveal his/her identity. "Final candidate" includes, whenever there are at least five candidates for a position/office, each of the five candidates who are considered most qualified, and whenever there are less than five candidates, each such candidate.
- g. Any record containing personally identifiable information as defined in state law that is collected or maintained in connection

with a complaint, investigation, or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding, or any such record that is collected or maintained in connection with such an action or proceeding, if the requestor is an individual or person authorized by the individual to inspect any record containing personally identifiable information pertaining to the individual.

h. Any record containing personally identifiable information as defined in state law that, if disclosed, would endanger an individual's life or safety or identify a confidential informant, if the requester is an individual or person authorized by the individual to inspect any record containing personally identifiable information pertaining to the individual.

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

3. 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 through disclosure of the record 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 will follow the procedures in Section F, 3 above and in state law when the access to a record in whole or part, is denied.

G. Assistance from legal counsel. When the legal custodian of records, or a deputy custodian in the absence of the legal custodian, determines that it is necessary or prudent to do so, he/she is authorized to seek specific legal advice from and engage the assistance of District legal counsel. In the event that District legal counsel is contacted for representation in connection with a records request, the individual making such contact will ensure that the Board President is immediately notified of the expected scope of such legal representation.

H. Destruction of records.

1. All District records will be kept for a period of not less than seven years unless a shorter period is fixed by the public records board and except as provided in (2). This section does not apply to student records.

2. Any taped recording of a meeting by a governmental body (School Board or subunit of the Board) may be destroyed no sooner than 90 days after the minutes have been approved and published if the purpose of the recording as to make minutes of the meeting.

3. Prior to destruction of any records, the historical society will 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.
  4. The District has adopted the **Wisconsin Records Retention Schedule for School Districts** as published by the Wisconsin Department of Public Instruction. This adoption provides for the retention, destruction and transfer of records to the State Historical Society more manageable.
- I. Preservation of records by microfilm. The legal custodian may, subject to Board resolution, keep and preserve public records in his/her possession by means of microfilm or another reproductive device, optical imaging or electronic formatting. Such records will meet the standards for photographic reproduction set forth in state law, and will be preserved along with other files of the District and will be open to public inspection and copying according to the provisions of state law and these procedures.

ADOPTION DATE: March 12, 2012

REVISION DATE(S):

REVIEW DATE(S):

CROSS-REFERENCE: Policy 823 Access to Public Records  
Exhibit 1, Public Records Notice and Fee Schedule  
Policy 347 Control, Maintenance, and Confidentiality of Student Records

LEGAL REFERENCE: Chapter 19, Subchapters II and IV, Wisconsin Statutes  
Sections 120.13(28), Wisconsin Statutes