

Community Relations

ACCESS TO COUNTY OFFICE RECORDS

The Inyo County Board of Education recognizes the right of citizens to have access to public records of the district. The Board intends the district to provide any person reasonable access to the public records of the schools and district during normal business hours and within the requirements of law. Public access shall not be given to records listed as exempt from public disclosure in the California Public Records Act and other state or federal law. (cf. 3580 – County Office Records) (cf. 4112.6/4212.6/4312.6 - Personnel Files) (cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records) (cf. 5125 - Student Records) (cf. 5125.1 - Release of Directory Information) (cf. 9011 - Disclosure of Confidential/Privileged Information) (cf. 9321 - Closed Session Purposes and Agendas)

The county office may charge for copies of public records or other materials requested by individuals or groups. The charge shall be based on actual costs of duplication, as determined by the Superintendent or designee and as specified in administrative regulation.

In order to help maintain the security of county office records, members of the public granted access shall examine records in the presence of a district staff member.

Legal Reference:

EDUCATION CODE

- 35145 Public meetings
- 35170 Authority to secure copyrights
- 35250 Duty to keep certain records and reports
- 41020 Requirement for annual audit
- 42103 Publication of proposed budget; hearing
- 44031 Personnel file contents and inspections
- 44839 Medical certificates; periodic medical examination
- 49060-49079 Pupil records
- 49091.10 Parental review of curriculum and instruction
- 52850 Applicability of article (School-Based Program Coordination Plan availability)

GOVERNMENT CODE

- 3547 Proposals relating to representation
- 6250-6270 California Public Records Act
- 6275-6276.48 Other exemptions from disclosure
- 53262 Employment contracts
- 54957.2 Minute book record of closed sessions
- 54957.5 Agendas and other writings distributed for discussion or consideration
- 81008 Political Reform Act, public records; inspection and reproduction

CALIFORNIA CONSTITUTION

- Article 1, Section 3 Right of access to governmental information

CODE OF REGULATIONS, TITLE 5

- 430-438 Individual pupil records

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COURT DECISIONS

International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County, (2007) 42 Cal.4th 319

Los Angeles Times v. Alameda Corridor Transportation Authority, (2001) 88 Cal.App.4th 1381

Kleitman v. Superior Court, (1999) 74 Cal.App. 4th 324

Fairley v. Superior Court, (1998) 66 Cal.App. 4th 1414

North County Parents Organization for Children with Special Needs v. Department of Education, (1994) 23 Cal.App. 4th 144

ATTORNEY GENERAL OPINIONS

71 Ops.Cal.Atty.Gen. 235 (1988)

64 Ops.Cal.Atty.Gen. 186 (1981)

Management Resources:

ATTORNEY GENERAL PUBLICATIONS

Summary of the California Public Records Act, 2004

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

The People's Business: A Guide to the California Public Records Act, 2008

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.caag.state.ca.us>

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

State Bar of California: <http://www.calbar.ca.gov>

BOARD POLICY:

First Reading: November 15, 1983

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Amended:

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Definitions

Public records include any writing containing information relating to the conduct of the county office's business prepared, owned, used, or retained by the district regardless of physical form or characteristics. (Government Code 6252) (cf. 3580 – County Office Records) (cf. 9012 - Board Member Electronic Communications)

Writing means any handwriting, typewriting, printing, photostating, photographing, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Government Code 6252)

Member of the public includes any person, except a member, agent, officer, or employee of the district acting within the scope of his/her office or employment.

Public Records

Public records to which the public shall have access include, but are not limited to:

1. Proposed and approved budgets and annual audit (Education Code 41020, 42103)
2. Statistical compilations
3. Reports and memoranda
4. Notices and bulletins
5. Minutes of public meetings (Education Code 35145)
6. Meeting agendas (Government Code 54957.5) (cf. 9322 - Agenda/Meeting Materials)
7. Official communications between the county office and other governmental agencies
8. School-based program plans (Education Code 52850)
9. Information and data relevant to the evaluation and modification of county office plans (cf. 0440 - District Technology Plan)
10. Initial proposals of exclusive employee representatives and of the county office (Government Code 3547)
11. Claims filed against the county office and records pertaining to pending litigation (Government Code 6254.25; Fairley v. Superior Court; 71 Ops.Cal.Atty.Gen. 235 (1988))
12. Statements of economic interests required by the Conflict of Interest Code (Government Code 81008) (cf. 9270 - Conflict of Interest)
13. Contracts of employment and settlement agreements (Government Code 53262)
14. Instructional materials including, but not limited to, textbooks (64 Ops.Cal.Atty.Gen. 186 (1981)) (cf. 5020 - Parent Rights and Responsibilities) (cf. 6161.1 - Selection and Evaluation of Instructional Materials)

Governing Board members shall have the ability to access public records permitted by law in the administration of their duties or open to inspection by members of the public. (Government

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Code 6252.5)

The Superintendent or designee shall ensure that any record containing personal information is redacted to ensure that such information, including, but not limited to, an employee's home address or social security number, is not disclosed to the public.

Confidential Records

Records to which the general public shall not have access include, but are not limited to:

1. Preliminary drafts, notes, interdistrict or intradistrict memoranda which are not retained by the county office in the ordinary course of business, provided that the public interest in withholding these records clearly outweighs the public interest in disclosure (Government Code 6254)
2. Records specifically prepared for litigation to which the county office is a party or to respond to claims made against the county office pursuant to the Tort Claims Act, until the pending litigation or claim has been finally adjudicated or otherwise settled, or beyond, if the records are protected by some other provision of law (Government Code 6254, 6254.25; Fairley v. Superior Court; 71 Ops.Cal.Atty.Gen. 235 (1988))
3. Personnel records, medical records, student records, or similar materials, the disclosure of which would constitute an unwarranted invasion of personal privacy (Government Code 6254) (cf. 4112.6/4212.6/4312.6 – Employee Records) (cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records) (cf. 5125 - Student Records) (cf. 5125.1 - Release of Directory Information) The home addresses and home telephone numbers of employees may be disclosed only 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 an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, unless the employee performs law enforcement-related functions or requests in writing that the information not be disclosed
 - d. To an agent or employee of a health benefit plan providing health services or administering claims for health services to county office employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents
4. Test questions, scoring keys, and other examination data except as provided by law (Government Code 6254) (cf. 6162.52 - High School Exit Examination)
5. Without affecting the law of eminent domain, the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the county office relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained (Government Code 6254)
6. Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons

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- would result in unfair competitive disadvantage to the person supplying the information (Government Code 6254)
7. Library circulation and patron use of a borrower or patron including, but not limited to, his/her name, address, telephone number, email address, borrowing information, or use of library information resources (Government Code 6254)
 8. Records for which the disclosure is exempted or prohibited pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege (Government Code 6254) (cf. 9124 - Attorney)
 9. Documents prepared by or for the county office to assess its vulnerability to terrorist attack or other criminal acts intended to disrupt county office operations and that are for distribution or consideration in closed session (Government Code 6254) (cf. 0450 - Comprehensive Safety Plan)
 10. Recall petitions, petitions for special elections to fill Board vacancies, or petitions for the reorganization of school districts (Government Code 6253.5) (cf. 9223 - Filling Vacancies)
 11. Minutes of Board meetings held in closed session (Government Code 54957.2) (cf. 9321 - Closed Session Purposes and Agendas)
 12. Computer software developed by the county office of education (Government Code 6254.9)
 13. Information security records, the disclosure of which would reveal vulnerabilities to, or increase potential for an attack on, the district's information technology system (Government Code 6254.19)
 14. Records that contain individually identifiable health information, including records that may be exempt pursuant to physician-patient privilege, the Confidentiality of Medical Information Act, and the Health Insurance Portability and Accountability Act (Government Code 6254, 6255)
 15. Any other records listed as exempt from public disclosure in the California Public Records Act or other statutes
 16. Records for which the county office can demonstrate that, based on the particular facts of the case, the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record (Government Code 6255)

Inspection of Records and Requests for Copies

Any person may request a copy or inspection of any county office record that is open to the public and not exempt from disclosure. (Government Code 6253)

Within 10 days of receiving any request to inspect or copy a county office record, the Superintendent or designee shall determine whether the request seeks release of a disclosable public record in the county office's possession. The Superintendent or designee shall promptly inform the person making the request of his/her determination and the reasons for the decision. (Government Code 6253)

In unusual circumstances, the Superintendent or designee may extend the 10-day limit for up to

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14 days by providing written notice to the requester 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: (Government Code 6253)

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 (e.g., a state agency or city) having a substantial interest in the determination of the request or among two or more components of the district (e.g., two different school sites) with substantial interest in the request
4. In the case of electronic records, the need to compile data, write programming language or a computer program, or 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. (Government Code 6253)

Public records are open to inspection at all times during district 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. (Government Code 6253)

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. (Government Code 6253)

The Superintendent or designee shall charge an amount for copies that reflects the direct costs of duplication. Written requests to waive the fee shall be submitted to the Superintendent or designee.

If any person requests 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 county office 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)

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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 requester 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: (Government Code 6253.1)

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 requester to help identify the record, the Superintendent or designee is still unable to identify the information, this requirement shall 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

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. (Government Code 6253)

ADMINISTRATIVE REGULATION:

First Reading:	<u>April 16, 2002</u>
Adopted:	<u>May 21, 2002</u>
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