



Board Policy No. 650

Access to Public Records – Requests and Fees

ADOPTED: 01/14/2015

RECENT AMENDMENT: 9/13/2017

SEE ALSO: N/A

SUBJECT CATEGORY: SECTION 600, LEGAL MATTERS

SUBSECTION: RECORDS

CONTROL DEPARTMENT: GENERAL COUNSEL

I. PURPOSE

The purpose of this policy is to establish guidelines for the District's handling and response to California Public Records Act (CPRA) requests. The Office of the General Counsel has sole responsibility for determining whether a public record is disclosable and for handling and preparing the District's response to requests made by members of the public under the CPRA. The General Counsel shall advise the General Manager and District Secretary of any significant CPRA requests and District departments will cooperate fully with the General Counsel in producing records in a timely manner.

II. PERSONS AFFECTED

All District employees, members of the Board of Directors, and Board Officers who receive requests for records are required to contact the General Counsel's Office to report the request and are subject to the provisions of this policy.

III. DEFINITIONS

"Exempt Record" means a record that is exempt from disclosure as described in Section III, or is otherwise exempt from disclosure or is not considered to be a public record under California law.

"Electronic Record" means a record, document, or writing contained, transcribed or held in electronic format, such as computer records, listings, electronic mail and similar.

"Member of the Public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his/her membership, agency, office or employment.

"Person" means any natural person, corporation, partnership, limited liability company, firm, or association.

"Public Records" include any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the District regardless of physical form or characteristics.

IV. POLICY

A. Limitations

The CPRA does not compel a public agency to create records that are not in existence or to provide for inspection or reproduction of records that are not disclosable public records. Common exemptions include, but are not limited to: personnel files, pending litigation records, closed session records, software or proprietary information, or drafts or notes not kept in the ordinary course of business. The Office of the General Counsel shall respond in writing to any request made for exempt records and explain why it is exempt from public disclosure.

B. Records Requests

The CPRA compels a public agency to disclose, make available for inspection, or copy a document that does exist, if it is a public record, and disclosable.

1. Inspection of Public Records:

- a. Public records are open to inspection at the District's General Offices Monday through Friday, except holidays, during regular business hours (8:30 a.m. to 5:00 p.m.). The District may request, but shall not require an individual to identify himself/herself and make a written request. Any reasonable portion of a record must be available for inspection by any person requesting the record after deletion of the portions that are exempted by law. It is requested that any person wishing to inspect public records contact the Office of the General Counsel to schedule an appointment to minimize delays. Under no circumstances shall any record be removed from the premises.

2. Requests for Copies of Public Records:

- a. A member of the public has a right to receive exact photocopies of public records, provided the requestor describes an identifiable record, pays the necessary fees for copy costs, and providing an exact copy is not impracticable. The District is not obligated to reconstruct unavailable computer data.
- b. The individual requesting to inspect records or have copies produced will provide the following information: name and title of the document(s) or material(s) requested, the number of copies required, and requested inspection or pick up date. If the name or title of the document is unknown, a written description will be required to ensure the correct document is made available for inspection or reproduction. The General Counsel's Office will assist members of the public in identifying the records requested whenever necessary.

3. Response Time:

- a. Upon request for a copy of records, the Office of the General Counsel shall, within ten (10) days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the District and shall promptly notify the requestor of the determination and reasons therefor.

- b. When unusual circumstances exist, the Office of the General Counsel may extend the 10-day response time by no more than 14 days. Written notice to the requester shall set forth reasons for the extension and the date for determination. Unusual circumstances include the following: the need to search and collect records from a separate facility; the need to search for, collect and examine a voluminous amount of records; the need to consult another agency that has an interest in the determination; the need to compile data or write programming language, a computer program or construct a computer report to extract data.

4. Fees for Copies of Records:

- a. Photocopies: Upon request for a copy of an identifiable record, the District shall make the records, not exempt from disclosure, promptly available upon payment of fees covering direct costs of duplication.
 - i. A request for a copy of an identifiable record or information produced will cover the direct costs of duplication, based on the current cost per standard reproduced page established by the District's Print Shop. Direct costs do not include tasks associated with retrieval, inspection and handling of the file from which the copy is extracted. The same rule applies to copies made from electronic records.
 - ii. The General Counsel may elect to waive the fees in certain cases in his/her sole discretion.
- b. Electronic Format: If the District has an identifiable public record, not exempt from disclosure, in an electronic format, the District shall make that information available in electronic format when requested.
 - i. The requestor will be responsible for the direct cost of producing a record in electronic format, including the direct cost of the data storage device, i.e. compact disk, flash drive, etc., unless provided in advance by the requestor in its new and unopened original packaging.
 - ii. An additional fee may be charged if there is a cost to construct the record including the cost of programming and computer services to produce a copy of the record when either (1) the District would be required to produce a copy of an electronic record that is produced only at otherwise regularly scheduled intervals or (2) the request would require data compilation, extraction or programming to produce the record. An hourly rate covering the salary of employees required to construct a record, including the cost of programming and computer services necessary to compile data, extract data, or computer programming to produce a record may be charged.