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DISTRICT RECORDS AND REPORTS

The operation of a school district results in the generation of numerous documents and official records. These must be maintained in compliance with the NJ Open Public Records Act and other laws and regulations. Members of the public have the right under law to inspect and copy (with certain exceptions) the public records of the district.

The district plans to preserve these records by (1) appointing the business administrator as records custodian, (2) periodically reviewing records retention with the chief school administrator and the school board or a committee thereof, and (3) retaining records according to the schedule for educational institutions promulgated by NJDARM (NJ Division of Archives & Records Management). A partial schedule, for key classes of records, is shown at the end of this policy.

**Availability to the Public**

For the protection of the public interest, the board believes that members of the community have a right to inspect, copy or examine district records, with certain exemptions as specifically described in statute. Any limitations on this right shall be construed in favor of the public's right to access. Requests for district records shall be submitted to the records custodian (or designee) in writing on the appropriate form. The custodian shall reply to all requests promptly and shall grant access or deny the request as soon as possible, but within seven days, provided that the record is currently available and not in storage or archived.

**Public Right of Inspection, Copies and Fees (N.J.S.A. 47:1A-2 et seq.)**

All government records or records as defined in N.J.S.A. 47:1A-1.1 will be deemed to be public records. Every citizen of this State also has the right, during such regular business hours and under the supervision of a representative of the custodian, to copy such records by hand, and will also have the right to purchase copies of such records.

Copies of records will be made available upon the payment of such price as established below:

Assembly Bill 559 and Senate Bill 1212 – Friday September 10, 2010, Governor Christie officially signed this legislation into law. As such, the fees described above DO NOT take effect until 60 days AFTER September 10th, which is Tuesday November 9, 2010. OPRA's fee provision, sets a flat rates for paper copies provided to requestors under OPRA. Specifically, the legislation provides that: "[a] copy or copies of a government record may be purchased by any person upon payment of the fee prescribed by law or regulation. Except as otherwise provided by law or regulation, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be:

**\$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger.**

If a public agency can demonstrate that its actual costs for duplication of a government record exceed the foregoing rates, the public agency shall be permitted to charge the actual cost of duplicating the record. The actual cost of duplicating the record, upon which all copy fees are based, shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or other overhead expenses associated with making the copy except as provided for in subsection c. of this section. Access to electronic records and non-printed materials shall be provided **free of charge**, but the public agency may charge for the actual costs of any needed supplies such as computer discs."

### **Records of Investigation In Progress (N.J.S.A. 47:1A-3 et seq.)**

Records which are sought to be inspected, copied, or examined pertain to an investigation in progress by the Board and/or administration will be inspected, copied and/or examined pursuant to N.J.S.A. 47:1A-3.

### **Inspection, Examination and Copying (N.J.S.A. 47:1A-5 et seq.)**

The custodian will permit the record to be inspected, examined, and copied pursuant to N.J.S.A. 47:1A-5 et seq. by any person during regular business hours. In the case of a Board of Education having a total district enrollment of 500 or fewer, the custodian will permit the records to be inspected, examined and copied during not less than six regular business hours over not less than three business days per week or the entity's regularly-scheduled business hours, whichever is less, unless the government record is exempt from public access as per N.J.S.A. 47:1A-5.a.

### **Copy Purchase (N.J.S.A. 47:1A-5 et seq.)**

If the custodian can demonstrate its actual costs for duplication of a government record exceed the Board approved rates, the district is permitted to charge the actual cost of duplicating the record. Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this policy is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort to accommodate the request, the district will charge, in addition to the actual cost of duplicating the record, a special service charge that will be reasonable and will be based upon the actual direct cost of providing the copy or copies. The custodian will provide the requestor an opportunity to review and object to the charge prior to it being incurred.

A custodian will permit access to a government record and provide a copy thereof in the medium requested if the district maintains the record in that medium. If the district does not maintain the record in the medium requested, the custodian will either convert the record to the medium requested or provide a copy in some other meaningful medium. If a request is for a record in a medium not routinely used by the district; not routinely developed or maintained by the district or requiring a substantial amount of manipulation or programming of information technology, the district will charge, in addition to the actual cost of duplication, a special charge that will be reasonable and based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the district or attributable to the district for the programming, clerical, and supervisory assistance required, or both.

Immediate access ordinarily will be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.

The custodian will adopt a form for the use of any person who requests access to a government record held or controlled by the district. The request form will include information in accordance with the requirements of N.J.S.A. 47:1A-5.f. Requests for access to a government record will be in writing and hand-delivered, mailed, transmitted electronically or otherwise conveyed to the custodian and the custodian will promptly comply with a request in accordance with N.J.S.A. 47:1A-5.g.

Any officer or employee of the district who receives a request for access to a government record will forward the request to the custodian of the record or direct the requestor to the custodian of the record.

The custodian will grant access to a government record or deny a request for access to a government record in accordance with N.J.S.A. 47:1A-5.i and as soon as possible, but not later than seven business days after receiving the request, provided that the record is currently available and not in storage or archived.

A custodian will post prominently in public view in the part of the office of the custodian that is open to or

frequented by the public a statement that sets forth in clear, concise and specific terms the right to appeal a denial of, or failure to provide, access to a government record by any person for inspection, examination, or copying or for purchase of copies thereof and the procedure by which an appeal may be filed.

#### **Challenge to Access Upon Denial (N.J.S.A. 47:1A-6)**

A person who is denied access to a government record by the custodian, at the option of the requestor, may institute a proceeding to challenge the custodian's decision by filing an action in Superior Court or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council established pursuant to Section 8 of P.L.2001, c. 404 (C.47:1A-7). If it is determined that access was improperly denied, the court or agency head shall order that access be allowed. A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

#### **Government Records Council (N.J.S.A. 47:1A-7 et seq.)**

The Board and the custodian of records will comply with the requirements and guidelines from the Government Records Council in accordance with N.J.S.A. 47:1A-7.

#### **Common Right Law Right of Access (N.J.S.A. 47:1A-8)**

Nothing contained in N.J.S.A. 47:1A-1 et seq. will be construed as limiting the common law right of access to a government record, including criminal investigative records of a law enforcement agency.

#### **Construction with Other Laws (N.J.S.A. 47-1A-9 et seq.)**

The provisions of this policy and N.J.S.A. 47:1A-1 et seq. will not abrogate any exemption of a public or government record from public access heretofore made pursuant to N.J.S.A. 47:1A-1 et seq.; any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order.

The provisions of this policy and N.J.S.A. 47:1A-1 et seq. will not abrogate or erode any executive or legislative privilege or grant of confidentiality heretofore established or recognized by the Constitution of this State, statute, court rule or judicial case law, which privilege or grant of confidentiality may duly be claimed to restrict public access to a public or government record

#### **Records Exempted from Public Access**

Records exempted by law include: security and emergency response procedures; purchase, lease or acquisition of real property; pending or anticipated litigation; reports of investigations in progress; matters for which disclosure would impair the right to receive federal funds; pending negotiations toward a collective bargaining agreement; most personnel and pension records of an individual; questions and answer keys (for personnel or academic examinations and job interviews); records concerning individual pupils and staff, their home addresses and telephone numbers (unless waived by the individual); reports and recommendations that involve unwarranted invasion of privacy; medical and psychological records.

The records custodian will keep confidential and edit out information in records that disclose social security numbers, credit card information and drivers' license numbers.

#### **Record Retention**

Record retention periods in conformance with state and federal codes, regulations, and statutes of limitation may be accessed through the New Jersey Division of Archives and Records Management

(NJDARM) in the School District Records Retention and Disposition Schedule located at <http://www.state.nj.us/state/darm/links/retention.html#eds>. The records custodian will ensure that records are retained and appropriately stored in accordance with state and federal statute and regulation. A partial schedule of retention periods for pertinent school record categories is listed below (Note: the School District Records Retention and Disposition Schedule should be consulted before any record is destroyed).

### **Partial Record Retention Schedule**

1. *Financial records*: 7 (seven) years
2. *Agendas and minutes*: Permanent for originals; 1 year for copies
3. *Resolutions of the school board*: Permanent
4. *Administrative policy and advisory statements*: Permanent
5. *Correspondence, including emails*: 3 (three) years for general external correspondence; one year for internal correspondence
6. *Official public meeting notice*: 3 (three) years
7. *Legal notice in newspaper*: 7 (seven) years
8. *Publisher's affidavits*: 10 (ten) years
9. *Tape recordings of school board meetings (audio tape and video)*: 45 (forty-five) days or until summary or verbatim transcripts have been approved as minutes
10. *Election file*: 5 (five) years for bonding election report, certificate and voting authority
11. *Other election materials*: 1 (one) year
12. *Master publications file of school newsletters, yearbooks, student handbooks, etc.*: Permanent
13. *School monitoring file (with school monitoring annual plan)*: Permanent
14. *Internal monitoring guide and action plan*: 14 (fourteen) years
15. *Academic master plan (updated every seven years)*: Permanent
16. *Support file for the academic master plan, including school evaluations*: 10 (ten) years.
17. *Fall and statistical report file*: 5 (five) years
18. *Settlements (original)*: Permanent
19. *Agency copy of routine settlements*: 3 (three) years after final settlement

School District Retention Schedule: Active Records – Administration, can be found at NJDARM School District Records Retention and Disposition Schedule reference number M7000101-999. For all other items the district will consult NJDARM School District Records Retention and Disposition Schedule for retention and disposal information.

**Implementation**

The chief school administrator shall periodically review the work of the records custodian with the school board or a committee thereof, to ensure that necessary steps are being taken to gather, record, disseminate, copy, store and ultimately to destroy school district records in accordance with applicable laws. Particular attention shall be paid to implementing the public's right to access records and to protecting from public access those records specifically exempted by law. If deemed necessary, the board will adopt additional rules, regulations and procedures to implement this policy.

**Date:****First Adoption: October 16, 2002****Revision Date: January 25, 2009, February 25, 2009, October 15, 2010****Revision and Adoption: October 28, 2010****Review Date: December 29, 2010****Revision and Adoption: January 27, 2011****Legal References:**

<u>N.J.S.A.</u> 10:4-6 <u>et seq.</u>	Open Public Meetings Act
<u>N.J.S.A.</u> 18A:4-14	Uniform system of bookkeeping for school districts
<u>N.J.S.A.</u> 18A:7A-11	Annual report of local school district; contents; annual report of commissioner; report on improvement of basic skills
<u>N.J.S.A.</u> 18A:11-2	Power to sue and be sued; reports; census of school children
See particularly:	
<u>N.J.S.A.</u> 18A:11-2b	
<u>N.J.S.A.</u> 18A:17-7	Secretary to give notices and keep minutes, etc.
through -12	Duties of business manager
<u>N.J.S.A.</u> 18A:17-28(e)	Records of receipts and payments
<u>N.J.S.A.</u> 18A:17-35	Accounting; monthly and annual reports
<u>N.J.S.A.</u> 18A:17-36	Act of violence; report by school employee; notice of action taken; annual report
<u>N.J.S.A.</u> 18A:17-46	Pupil records; creation, maintenance and retention, security and access; regulations; non-liability
<u>N.J.S.A.</u> 18A:36-19	Examination and copies of public records ("Open Public Records Act")
<u>N.J.S.A.</u> 47:1A-1 <u>et seq.</u>	
See particularly:	
<u>N.J.S.A.</u> 47:1A-1.1, -5	Destruction of Public Records Law
<u>N.J.S.A.</u> 47:3-15 <u>et seq.</u>	Child Nutrition Programs
<u>N.J.A.C.</u> 2:36-1.1 <u>et seq.</u>	Incident reporting of violence, vandalism and substance abuse
<u>N.J.A.C.</u> 6A:16-5.3	Prescribed system of double entry bookkeeping and GAAP accounting
<u>N.J.A.C.</u> 6A:23A-16.1 <u>et seq.</u>	Vehicle records
<u>N.J.A.C.</u> 6A:27-7.9	Evaluation of the Performance of School Districts
<u>N.J.A.C.</u> 6A:30-1.1 <u>et seq.</u>	Student Records
<u>N.J.A.C.</u> 6A: 32-7.1 <u>et. seq.</u>	
See particularly:	
<u>N.J.A.C.</u> 6A:32-7.1(g), -7.8	
<u>N.J.A.C.</u> 6A:32-12.1	Reporting requirements
<u>N.J.A.C.</u> 6A:32-12.2	School level planning

N.J.A.C. 15:3-2.1 et. seq. Records Retention

Annual Data Collection Plan, New Jersey State Department of Education

Records Retention Schedule, New Jersey State Department of Education

Matawan Regional Teachers Association v. Matawan-Aberdeen Bd. of Ed., 212 N.J. Super. 328 (Law Div. 1986)

Laufgas v. Barnegat Twp. Bd. of Ed., 1987 S.L.D. 2442, aff'd St. Bd. 1988 S.L.D. 2496

Horner v. Kingsway Regional, 1990 S.L.D. 752

Beatty v. Chester Bd of Ed, 1999 S.L.D. (Sept.)

**Possible**

<b>Cross References:</b>	3543	Office services
	3571	Financial reports
	4112.6	Personnel records
	4212.6	Personnel records
	5125	Pupil records
	5131.5	Vandalism/violence
	6142.2	English as a second language; bilingual/bicultural
	6171.3	At-risk and Title 1
	6171.4	Special education
	9322	Public and executive sessions
	9326	Minutes

Key Words

District Records and Reports, Public Access, Records, Reports