

Community Relations

SUBJECT: PUBLIC ACCESS TO RECORDS

The following regulations outline the procedures by which records may be obtained from the District. The Records Access Officer will furnish to the public the information and records required by the Freedom of Information Law (FOIL), as well as records otherwise available by other applicable law. Any conflicts among laws governing public access to records will be construed in favor of the widest possible availability of public records.

Records Access Officer

The following District employee has been designated by the Superintendent with the Board's approval to serve as the Records Access Officer:

Angelo M. Rubbo
Assistant Superintendent of Business
1075 Broadway, PO Box 8
Pleasantville, New York 10570
914-769-0456 ext. 1203
arubbo@mpcsny.org

Responsibilities of the Records Access Officer

The Records Access Officer is responsible for ensuring appropriate District response to public requests for access to records. However, the designation of a Records Access Officer will not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

The Records Access Officer is responsible for ensuring that District personnel:

- 1) Maintain an up-to-date subject matter list;
- 2) Assist the requester in identifying requested records, if necessary, and, when appropriate, indicate the manner in which the records are filed, retrieved, or generated to assist in reasonably describing the desired records;
- 3) Contact the requester when a request is voluminous or when locating the records involves substantial effort, so that District personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested;
- 4) Upon locating the records, take one of the following actions:
 - a. Make records promptly available for inspection; or
 - b. Deny access to the records in whole or in part and explain in writing the reasons for the denial;

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- 5) Upon request for copies of records:
 - a. Make a copy available upon payment, or agreement to pay established fees, if any; or
 - b. Permit the requester to copy those records;
- 6) Upon request, certify that a record is a true copy;
- 7) Upon failure to locate records, certify that:
 - a. The District is not the custodian for the records; or
 - b. The records cannot be found after diligent search.

Location and Hours for Public Inspections

Records will be available for public inspection and copying at:

Mount Pleasant Cottage School UFSD
District Office
1075 Broadway
Pleasantville, New York 10570

Requests for public access to records will be accepted and records produced during all hours the District is normally open.

Subject Matter List

The District will maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not available in accordance with FOIL, so as to permit identification of the category of the record sought.

The subject matter list will be updated annually, and the date of the most recent update will appear on the first page of the subject matter list.

Requests for Public Access to Records

- 1) Generally, requests must be made in writing. However, oral requests may be accepted when records are readily available.
- 2) If records are maintained on the internet, the requester will be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.

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- 3) A response will be given within five business days of receipt of a request by:
 - a. Informing the requester that the request or a portion of it does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;
 - b. Granting or denying access to records in whole or in part;
 - c. Acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which will be reasonable under the circumstances of the request and will not be more than 20 business days after the date of the acknowledgement, or if it is known that circumstances prevent disclosure within 20 business days from the date of the acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period, when the request will be granted in whole or in part; or
 - d. If the receipt of the request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within 20 business days of the acknowledgement, but circumstances prevent disclosure within that time frame, providing a statement in writing within 20 business days of the acknowledgment specifying the reason for the delay and a date certain, within a reasonable period, when the request will be granted in whole or in part.
- 4) In determining a reasonable time for granting or denying a request, District personnel will consider: the volume of a request; the ease or difficulty in locating, retrieving, or generating records; the complexity of the request; the need to review records to determine the extent to which they must be disclosed; the number of requests received by the District; and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.
- 5) A failure to comply with the time limitations will constitute a denial of a request that may be appealed.

Response to Requests for Access to Records

The District will make available for public inspection and copying all records, except that it may deny access to records or portions of records in accordance with law and regulation. This includes, but is not limited to, denying access to records or portions of records that:

- 1) Are specifically exempted from disclosure by state or federal statute;
- 2) If disclosed would constitute an unwarranted invasion of personal privacy under the provisions of Public Officers Law;

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- a. An unwarranted invasion of personal privacy includes, but is not limited to:
 - (1) Disclosure of employment, medical, or credit histories or personal references of applicants for employment;
 - (2) Disclosure of items involving the medical or personal records of a client or patient in a medical facility;
 - (3) Sale or release of lists of names and addresses if those lists would be used for solicitation or fundraising purposes;
 - (4) Disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party, and the information is not relevant to the work of the agency requesting or maintaining it;
 - (5) Disclosure of information of a personal nature reported in confidence to the District and not relevant to the ordinary work of the District; or
 - (6) Information of a personal nature contained in a workers' compensation record, except as provided by Workers' Compensation Law Section 110-a;
- b. Unless otherwise provided by FOIL, disclosure will not be construed to constitute an unwarranted invasion of personal privacy:
 - (1) When identifying details are deleted;
 - (2) When the person to whom a record pertains consents in writing to disclosure;
 - (3) When upon presenting reasonable proof of identity, a person seeks access to records pertaining to themselves;
- 3) If disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- 4) Are trade secrets or are submitted to the District by a commercial enterprise or derived from information obtained from a commercial enterprise and which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise;
- 5) Are compiled for law enforcement purposes only to the extent that disclosure would:

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- a. Interfere with law enforcement investigations or judicial proceedings. If the District is not conducting the investigation that the requested records relate to, the District will confirm with law enforcement or the agency conducting the investigation that disclosure of the records would interfere with the ongoing investigation;
 - b. Deprive a person of a right to a fair trial or impartial adjudication;
 - c. Identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - d. Reveal criminal investigative techniques or procedures, except routine techniques and procedures;
- 6) If disclosed could endanger the life or safety of any person;
- 7) Are inter-agency or intra-agency materials which are not:
- a. Statistical or factual tabulations or data;
 - b. Instructions to staff that affect the public;
 - c. Final agency policy or determinations; or
 - d. External audits, including, but not limited to, audits performed by the comptroller and the federal government;
- 8) Are examination questions or answers which are requested prior to the final administration of such questions;
- 9) If disclosed, would jeopardize the capacity of an agency or entity that has shared information with an agency to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures.

A denial of access will not be based solely on the category or type of the record and is only valid when there is a particularized and specific justification for the denial.

Fulfilling FOIL Requests

The District will provide copies of records in the format and on the medium requested by the person filing the FOIL request if the District can reasonably do so. The District will not enter into or renew a contract for the creation or maintenance of records if the contract impairs the right of the public to inspect or copy the District's records.

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The District's Records Access Officer will work with the requester to clarify and define the scope so as to accommodate the records request. The District can reject a request that is vague and does not reasonably describe the requested records.

The District may require a person requesting lists of names and addresses to provide a written certification that they will not use the lists of names and addresses for solicitation or fundraising purposes and will not sell, give, or otherwise make available the lists of names and addresses to any other person for the purpose of allowing that person to use the lists of names and addresses for solicitation or fundraising purposes.

Should the District have the ability to do so with reasonable effort, it will retrieve or extract requested records or data maintained in its computer storage system. Moreover, the District will retrieve or extract records or data electronically when doing so would take less employee time than manual retrieval or redaction of non-electronic records. Records provided in computer format will not be encrypted.

Denial and Appeal of Access to Records

- 1) Denial of access to records will be in writing stating the reason for denial and advising the requester of the right to appeal to the person or body designated to determine appeals, who or which will be identified by name, title, business address, and business phone number. The appeals officer will not be the same person as the Records Access Officer.
- 2) If requested records are not provided within designated time frames, the failure will also be deemed a denial of access.
- 3) The following person or persons or body will determine appeals regarding denial of access to records under FOIL:

Stephen Beovich
Superintendent of Schools
Mount Pleasant Cottage School UFSD
1075 Broadway
Pleasantville, New York 10570
914-769-0456

- 4) Any person denied access to records may appeal within 30 days of a denial.
- 5) The time for deciding an appeal by the person or body designated to determine appeals will commence upon receipt of a written appeal identifying:

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- a. The date and location of requests for records;
 - b. A description, to the extent possible, of the records that were denied; and
 - c. The name and return address of the person denied access.
- 6) A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing will constitute a denial of the appeal.
 - 7) The person or body designated to determine appeals will send to the Committee on Open Government copies of all appeals upon receipt of appeals. These copies will be addressed to:

Committee on Open Government, Department of State
One Commerce Plaza
99 Washington Avenue, Suite 650
Albany, NY 12231
 - 8) The person or body designated to determine appeals will inform the appellant and the Committee on Open Government of its determination in writing within ten business days of receipt of an appeal.
 - 9) A final denial of access to a requested record will be subject to court review.

Fees

- 1) There will be no fee charged for the following:
 - a. Inspection of records for which no redaction is permitted;
 - b. Search for, administrative costs of, or employee time to prepare photocopies of records;
 - c. Review of the content of requested records to determine the extent to which records must be disclosed or may be withheld;
 - d. Certification of documents;
 - e. Copies of documents which have been printed or reproduced for distribution to the public.
- 2) The District may charge a fee for copies of records provided that:

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- a. The fee for copies of records will not exceed 25¢ per photocopy not exceeding 9 by 14 inches except when a different fee is otherwise prescribed by statute;
 - b. The fee for copies of records in excess of 9 by 14 inches will not exceed the actual reproduction cost; or
 - c. The District has the authority to redact portions of a paper record and does so prior to disclosure of the record by making a copy from which the proper redactions are made.
- 3) The fee the District may charge for a copy of any other record is based on the actual cost of reproduction and may include only the following:
 - a. An amount equal to the hourly salary of the lowest paid employee with the skills necessary to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and
 - b. The actual cost of the storage devices or media provided to the requester in complying with the request; or
 - c. The actual cost to the District of hiring an outside professional service to prepare a copy of a record, but only when the District's technology equipment is inadequate to prepare the copy and if such service is used to prepare the copy.
- 4) When the District has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the District will be required to retrieve or extract the record or data electronically. In these cases, the District may charge a fee in accordance with law and regulation.
- 5) A person requesting a record will be informed of the estimated cost of preparing a copy of the record if more than two hours of a District employee's time is needed, or if an outside professional service will be retained to prepare a copy of the record.
- 6) The District may require that the fee for copying or reproducing a record be paid in advance of the preparation of the copy.
- 7) The District may waive a fee in whole or in part when making copies of records available.

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SUBJECT: PUBLIC ACCESS TO RECORDS (Cont'd.)**Notification**

The District will post in a conspicuous location wherever records are kept and/or publish in a local newspaper of general circulation a notice which contains: the locations where records will be made available for inspection and copying; the name, title, business address, and business telephone number of the Records Access Officer; and the right to appeal a denial of access to records with the name and business address of the person or body to whom the appeal should be directed.

Education Law § 2116 Public
Officers Law Article 6 21
NYCRR Part 1401

June 14, 2021
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