

Book	Policy Manual
Section	POLICIES FOR THE BOARD, JUNE, 2023
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8310 - PUBLIC RECORDS

The **School** Board recognizes its responsibility to maintain and protect the public records of the Board and to make these records available for inspection and the purchase of copies in compliance with the Indiana Access to Public Records Act, I.C. 5-14-3-4 ('APRA').

'Public Records' Defined and Mandatory and Discretionary Exemptions

The public records of this Board are those records that are created, received, retained, maintained, or filed with the board or its officers, employees, or agents in any form including on paper and in any computer-readable media. Certain records covered by this definition ~~must~~**shall** be maintained as confidential records pursuant to I.C. 5-14-3-4(a) unless production is ordered by a court under the rules of pre-trial discovery, while other records covered by this definition are subject to a discretionary exemption listed in I.C. 5-14-3-4(b).

Protection of Public Records

A person who recklessly, knowingly, or intentionally destroys or damages any public record commits a **Class D Level 6** felony in violation of I.C. 5-15-6-8. Public records may be destroyed when the County Commission on Public Records created pursuant to I.C. 5-15-6 has given written approval for the destruction of the record, or authority for destruction of the records is addressed by a retention schedule established and approved under I.C. 5-15-6.

Protection of Confidential Information in Public Records

As used in this policy, the term 'redact' means to black out or cover with a permanent opaque material so that the content cannot be read. Where redaction is necessary, sufficient content shall be redacted so that the redacted content cannot be identified from the context.

The Board directs the Superintendent and Board employees having custody and supervision over public records to protect the confidentiality of records that are not to be disclosed under I.C. 5-14-3-4(a). This includes a person's Social Security Account Number ('SSAN') which shall be redacted from any public record released unless the SSAN is specifically required to be disclosed by a State or a Federal law or is ordered by a court under the rules of discovery.

Other information that ~~must~~**shall** be kept confidential includes personally identifiable information about a student protected by the Family Educational Rights and Privacy Act ('FERPA'), 20 U.S.C. 1232g and 34 CFR Part 99, medical or genetic information about an employee, and information containing a trade secret as defined in I.C. 24-2-3-2.

Authorization to Assert Mandatory and Discretionary Exemptions

Given the time limitations established for compliance with a response to a request for records under the APRA, the Board directs the Superintendent to assert any exemption required to protect information that ~~must~~**shall** be kept confidential pursuant to I.C. 5-14-3-4(a); and the Board authorizes the Superintendent to assert any discretionary exemption to the APRA found in I.C. 5-14-3-4(b) including: records that are intra-agency or inter-agency advisory or deliberative material; diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal; files of applicants for Board employment, and personnel files of Board employees, except that the following information from personnel files ~~must~~**shall** be disclosed:

- A. the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the Board;
- B. information relating to the status of any formal charges against a Board employee; and
- C. the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

If personnel file information about a current or former employee is disclosed, the current or former employee shall be advised of the release of the information from their personnel file and a description of the released information.

Limited Access to Requests for Lists of Persons

Notwithstanding any other provisions of law or this policy, in compliance with I.C. 5-14-3-4(f), the Board ~~will~~**shall** not create a new list or provide a copy of an existing list that includes the names and addresses of persons (including e-mail addresses) in response to a request unless the Board is required by law to publish and disseminate the list to the public.

However, if the Board has created a list of names and addresses of persons, it ~~will~~**shall** permit a person to inspect and make memoranda abstracts from the list, excluding e-mail addresses unless access to the list is prohibited by law.

Lists of Students for Use by Official Recruiting Representative of Armed Forces

Notwithstanding any policy to the contrary, a request for a list containing 'directory information' as defined at I.C. 20-33-10-3 and the Family Rights and Privacy Act ('FERPA') from an official recruiting representative of an armed force of the United States pursuant to I.C. 20-33-10 and/or 9528 of the ESEA (20 U.S.C. 7908), as amended by the No Child Left Behind Act of 2001 (P.L. No. 107-110), shall not be denied. However, an official recruiting representative may be required to pay a fee that represents the actual costs of copying and mailing the student directory information to the recruiter.

This information shall not be provided if a high school student or the parent of a high school student submits a signed, written request at the end of the student's sophomore year that states that the student or the parent of the student does not want the student's directory information to be provided to official recruiting representatives of the armed forces of the United States. Notice of the right to object to the release of student directory information generally under FERPA, and to official recruiting representatives of the armed forces of the United States, specifically, shall be provided in annual notices given to all high school students and their parents, guardian, or custodian.

A request to inspect and/or purchase copies of a public record in the custody of the Board may be submitted orally during the regular business hours in the office in which such records are maintained. A written request to inspect and make notes from public records in the custody of the Board may be submitted by e-mail, facsimile, or USPS mail. Such a request submitted outside of the regular business hours in the office in which such records are maintained, shall be received at the beginning of the next regularly scheduled work day in that office.

A requesting party shall be required to describe the records sought with reasonable particularity.

The Board Public Access Officer ('PAO') designated by the Superintendent or a Board employee acting at the discretion of the PAO ~~will~~**shall** advise the requesting party whether any records specified in the request are available for inspection and copying. When the person making the request is physically present in a Board office makes the request by telephone, or requests enhanced access to a record, a denial of disclosure occurs at the earlier of the time an employee of the Board refuses to permit inspection and copying of the requested record; or twenty-four (24) hours elapse after the request is received. When a request is made by mail, e-mail, or by facsimile, a denial of the request occurs at the earlier of the time a Board employee refuses to permit inspection and copying of the requested record or when seven (7) days have elapsed from the date the request was received by the Corporation.

The initial response to a request required by these time limitations does not need to be the final response of the Board to a request, but the initial response shall at least acknowledge receipt of the request and provide an initial assessment of the existence of records covered by the request. In preparing a final response of the Board following the initial response, the PAO shall comply with I.C. 5-14-3-7 and shall take into account the other duties to be performed by Board employees with custody of the requested record and shall not cause or permit a material interference with the regular discharge of the other functions or duties of the Corporation or its employees.

Enhanced Access to Corporation Records

As used in this policy, 'enhanced access' means the inspection of a public record by a person other than a governmental entity by means of an electronic device other than an electronic device provided by the Corporation, or requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

The Board authorizes the Superintendent to provide enhanced access to any public record the Board has stored in an electronic database that is not confidential or exempt from disclosure. Enhanced access may be provided by means of copying on to an electronic data storage device a transmission attached to an e-mail or direct access to the Board network through a temporary and limited access portal.

The Superintendent shall establish a fee for enhanced access that does not exceed the Corporation's 'direct cost', i.e. one hundred five percent (105%) of the sum of: the initial development of a program, if any, the labor required to retrieve electronically stored data and any medium used for electronic output for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval.

Fees for Purchasing Copies of Public Records

Board public records may be inspected without charge. Purchase of copies of public records may be made upon payment of a fee. The Board establishes the following fee schedule for purchase of a copy of public records. These fees ~~will~~**shall** be uniform for all purchasers.

Copies shall be prepared by a Corporation employee and provided to a requesting party upon payment of a fee which is the greater of:

- A. ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or
- B. the actual cost of copying the document.

'Actual cost' means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs.

- C. Certification of document as a true and accurate copy of an original record in the custody of the Corporation, five dollars (\$5.00).

The Board ~~will~~ shall charge a fee for providing a duplicate of a computer tape, computer disc, microfilm, or similar or analogous record system containing a public record in the custody of the Corporation. The fee shall not exceed the sum of the:

- A. Corporation's direct cost of supplying the information in that form; and
- B. standard cost of selling the same information to the public in the form of a publication if the Corporation has published the information and made the publication available for sale.

In response to a request for public records, the Board may charge a fee for any time spent searching records that are in electronic format when the search exceeds five (5) hours. There ~~will~~ shall be no charge for the first five (5) hours of a search. The fee for time beyond the first five (5) shall be the lesser of: (1) the hourly rate of the person making the search; or (2) twenty (\$20) per hour. This hourly fee for searching for records in an electronic format applies only to time the person making the search actually spends searching the records in electronic format. No minimum fee shall be established. School personnel, doing an electronic search in response to a request for public records, ~~will~~ shall make a good faith effort to complete the search within a reasonable time in order to minimize the amount of the search fee. Any fee charged shall be prorated to reflect any part of the search which is less than a full hour. No charge ~~will~~ shall be made for "computer processing time." "Computer processing time" is defined as the amount of time a computer takes to process a command or script to extract or copy electronically stored data that is the subject of a public records request.

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Legal

I.C. 5-14-3, 5-15-6, 20-33-10