

IDAHO PUBLIC RECORDS LAW

605

INTRODUCTION

Effective July 1, 1990, Idaho has a law relating to the disclosure of information by all state and local government entities. The Idaho Public Records Act is found at Idaho Code Sections 9-337 through 9-348. The intent of this law is that all records maintained by public agencies are open to the public for inspection and copying at all reasonable times, unless the information is specifically exempted from disclosure by law.

DEFINITIONS

Key terms are defined in the Act. Some of the law's most important concepts are:

1. Public records - These include, but are not limited to, any writing containing information relating to the conduct or administration of the public's business, prepared, owned, used or retained by a public agency. "Writing" means information maintained in many forms including, for example, pictures, maps, tapes, magnetic or punched cards, and computer disks.
2. Inspect - This means the right to listen, view, and make notes of public records, as long as the public record is not altered or damaged in the process.
3. Copy - This means transcribing by handwriting, photocopying, duplicating machine, and reproducing by any other means, so long as the public record is not altered or damaged in the process.
4. Custodian - This means any public official or employee having physical custody and control of the public records, including those who respond to requests for information on routine basis. "Custodian" also includes the person, whether elected or appointed, who is legally responsible for administering the public agency, or that person's designee. "Designated custodians" are those employees authorized to perform specific responsibilities that are described in this policy including denying requests for information when appropriate to do so.

DESIGNATED CUSTODIANS

The following people are the designated custodians for this agency:

Superintendent
Assist. Superintendent

EXEMPTIONS

The records exempt from disclosure by this Act are listed in Idaho Code Section 9-340. All Employees should be aware of the following exemptions that apply to this agency:

Personnel Information

The employment history, classification, pay grade and step, longevity, gross salary and salary history, status, work place and employing agency of any current or former employee are required to be disclosed to any person who requests the information.

All other information relating to any employee or applicant, such as home address and phone number, shall not be disclosed to the public without the written consent of the employee, applicant or designated representative. Employees may inspect and copy their own records, except for material used to screen and test for employment.

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Records may contain both exempt and non-exempt material. The public agency is responsible for separating the exempt from the non-exempt information and supplying the non-exempt record. The Act prohibits denying access based upon the fact that the record contains both types of materials.

Even if an exemption applies to a record, the law allows disclosure of statistical information that does not identify any particular person.

PROCEDURE FOR REQUESTING PUBLIC RECORDS

It is this agency's policy to continue providing access to and copies of records immediately upon request whenever possible. Examination of records should be done during normal working hours, unless the person who administers the agency or a designated custodian authorizes otherwise. A certified copy, if feasible to produce or required by law, must be provided upon request.

The law prohibits asking why the information is needed. It is permissible to explain what records are available and to help identify the material that is desired. It is also permissible to allow the person to examine non-exempt files in order to select the specific records needed. Staff must maintain vigilance to see that records are not altered or destroyed, but the law prohibits examination of any copy, photograph or notes in the person's possession.

Whenever information is requested, the person is required to fill out a written request form.

A request for records must be granted or denied within three (3) working days.

If a longer time is needed to locate or retrieve the records, ask for a written request. The persons in this agency who are authorized to determine that a request cannot be granted within three working days are the Superintendent and Assist. Superintendent. The request must be granted or denied in whole or part within ten (10) working days. If no answer is provided within ten (10) working days, the request will be deemed to have been denied.

Policy Decision:

Some agencies have considered keeping a log of requests. Given legislative intent that there be free access to public records and that such a log would itself be a public document, it may be inappropriate to include any information identifying the person making the request.

COSTS FOR PROVIDING PUBLIC RECORDS

A fee will be charged for each photocopy provided.

The Act does not require the agency to provide multiple copies of the same document.

The fee charged for locating or copying a public record cannot include any administrative or labor costs. The Act does permit public agencies to charge for the actual cost of copying records. This agency's cost of standard photocopies is currently twenty (20) cents per page and colored copies \$1.00 per page.

Advance payment of photocopying charges is required.

The fee charged for providing information in the form of computer tapes, disks, microfilm or similar record media may not exceed the amount of the direct cost of copying. If the information is also available in publication form, the agency may offer the published material to the individual at the standard cost of selling the publication.

When necessary the Superintendent or Assist. Superintendent may authorize examination of records to be done outside of regular working hours. If this is done, advance payment of reasonable compensation for this added expense is required.

If there is a request to mail copies of documents to someone and the mailing cost is in excess of \$.41, ask for a written request, advance payment, and a stamped, self-addressed envelope large enough for the number of copies.

The designated custodian or person who administers the agency may choose to allow staff, as time permits, to transmit a small number of records by FAX, with the understanding that the person requesting the records will pay the telecommunications charges if they are not minimal.

INSPECTION AND CORRECTION OF AN INDIVIDUAL'S RECORDS

After providing identification, an individual may inspect copy and request correction of public records pertaining to that person, except those portions of records that are exempt from disclosure. A correction, or a written refusal to make the correction, must be made within ten (10) calendar days. Refer these requests to the person who administers the agency or a designated custodian immediately.

Subsection (3) of Section 9-342 prohibits access to certain records pertaining to oneself, if the information: relates to exempt investigatory records of ongoing investigations; "is compiled in reasonable anticipation of litigation which is not otherwise discoverable;" relates to adoption records; or "is otherwise exempt from disclosure by statute."

DENIAL OF REQUEST

If there is any doubt about whether information should be disclosed, ask for a written request and immediately direct it to a designated custodian. It is this agency's policy that such a request shall be reviewed by the agency's attorney.

If a request for a record is denied in whole or in part, the Act requires the person who administers the agency or a designated custodian to notify the person in writing. This notice shall state that (1) the attorney for the agency has reviewed the request, or that the agency had the opportunity to consult with an attorney and has denied the request; (2) the statutory basis for the denial; (3) a simple statement of the right to appeal and the time limit for appeal; and (4) a certificate for mailing (see attached form).

If a request to correct an individual's record is denied, written notification is required within ten (10) calendar days of the receipt of the request. The notice of refusal to amend a record must state the reasons for the refusal, and provide the statement of appeal rights and certificate of mailing mentioned above.

The time limit for filing an appeal is 180 days from the date the notice of denial is mailed. The sole remedy for protesting the public agency's decision is to file a petition in the district court of the county where the records or

some part of them are located, requesting the court to compel the agency to make the information available or to correct the record.

If a request is denied, the requested records must be retained until the end of the appeal period, or as otherwise provided by law, whichever is longer. Whenever a request is denied, there must be some indication made on the record that it shall not be purged without the approval of the person who administers the agency or a designated custodian.

PENALTY AND IMMUNITY

The law provides a penalty of up to \$1,000 for a deliberate, bad faith denial of information that can legally be disclosed. It also provides immunity from liability for the release of records as long as there is a good faith attempt to comply with the law's requirements. Therefore, it is important to refer immediately any questions or any requests that seem doubtful to the person who administers the agency or a designated custodian.

DATE ADOPTED 1-21-91
Adopted 8/20/07

To:

Re: Request for Information

Dear _____:

On _____, I received your request for _____.

Section 9-340 (_____) of the Idaho Public Records Law provides: _____

To the extent that your request involves records that are exempt from disclosure under this section, the request is denied.

You have 180 days from the date of mailing indicated below in which to protest this decision. You have the right to file a petition in the district court of the county where the records, or some part of them, are located, requesting the court to compel disclosure of the information. The court will set a time for our response and for a hearing at the earliest possible time, not later than twenty-eight days after the petition is filed.

I regret that we could not accommodate your request.

Very truly yours,

Designated Custodian

[] This request has been reviewed by _____,
our attorney.

Approved: _____
(signature of attorney)

[] Though I have had an opportunity to have this request reviewed by an attorney, I have chosen not to do so because the Idaho Public Records Law makes this information exempt from disclosure.

[] I have consulted with our attorney, _____, by
telephone.
cc: attorney]

CERTIFICATE OF MAILING

I hereby certify that the original of this letter was deposited in the United States mail, postage prepaid, this
_____ day of _____, _____.



714 Jefferson Street
Grangeville, ID 83530
Telephone 208-983-0990
Facsimile 208-983-1245
www.sd244.org

REQUEST FOR PUBLIC RECORDS

If more than three working days are needed to locate or retrieve the request records, a response shall be provided within ten (10) working days of the request.

I request to examine []
copy [] the following records:

Signature

Name (Please Print)

Date of Request

Mailing Address:

Zip

Daytime Phone Number

(for office use only)
MOUNTAIN VIEW SCHOOL DISTRICT #244
[Public Agency]

Date Received

Charge for _____ copies @ .20 per copy = \$ _____
colored copies @ 1.00 per copy = \$ _____

Charge for staff time _____ hours @ ____ per hour = \$ _____

Total Amount Due = \$ _____

Receipt Number : _____

Received by: _____