



# Board of Education

## Staff Report to the Board

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**Board Meeting Date:** July 17, 2018      **Executive Committee Lead:** Liz Large  
**Department:** Legal      **Presenter/Staff Lead:** Liz Large

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<b>SUBJECT: Public Access to District Records Policy</b>
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### **BACKGROUND**

The Board sought an amendment to the existing Public Access to District Records Policy to ensure the District is providing transparency and an accurate accounting of how the district carries out its business by disclosing public records in compliance with state law.

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### **BOARD COMMITTEE REVIEW (IF APPLICABLE)**

The Policy and Governance Committee reviewed and revised the existing policy on February 16 and introduced and reviewed two amendments on May 16.

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### **PROCESS / COMMUNITY ENGAGEMENT**

The Board held a First Reading of the revised policy on February 27, 2018. It then held a First Reading of proposed amendments to the revised policy on June 12, 2018. Following each First Reading, the policy and amendments, respectively, were posted for public comment, and the Board received and considered all comments received.

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### **BUDGET / RESOURCE IMPLICATIONS**

No incremental budget impact expected.

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### **NEXT STEPS / TIMELINE / COMMUNICATION PLAN**

Once adopted by the Board, the revised policy will be placed on the District web page. The Superintendent will promptly revise the AD related to this policy to conform to the revisions and provide additional guidance.

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### **QUESTIONS FOR BOARD DISCUSSION**

Not applicable.

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## **2.50.010-P Public Access to District Records**

In order to promote transparency and provide an accurate accounting of how the district carries out the public's business it is the intent of the Board that all district records should be disclosed courteously and consistent with state and federal law. The district shall rely upon the definition of "Public Record" set forth in Oregon law.

- (1) The Superintendent shall hire a Public Records Officer and develop administrative directives and procedures to provide clarity and consistency to the public about access to district public records. The Public Records Officer shall process all requests as soon as practicable and without unreasonable delay, without regard to the nature of the records or identity of the requester.
- (2) It is the goal of the school district to provide the public with records at no or minimal cost when the documents requested are not voluminous or do not require significant time to locate and process. The Superintendent shall develop clear guidelines regarding when it is appropriate to charge fees and to provide clarity to requesters as to how fees are determined.
- (3) The district recognizes that it is in possession of sensitive and confidential information about our students, staff, and families. Upon receiving a public records request seeking potentially sensitive, personal, or private information related to a staff member, the District shall notify the staff member and the staff member's union (if represented) in writing of the existence and nature of the records request. In responding to public records requests, the District will follow state and federal law.
- (4) When public records are requested that could be considered exempt under one of the conditional exemptions under Oregon law, the district shall construe the public interest liberally in favor of disclosure.
- (5) The Public Records Officer shall, with the advice and counsel of the General Counsel or its designee, make determinations as to whether (a) a record is responsive to a public records request; (b) a record contains information the district is prohibited from disclosing; or (c) a record is exempt from disclosure. The Public Records Officer shall have the responsibility of ensuring exemptions are legally and appropriately applied.
- (6) Records shall be made available to persons with disabilities in an appropriate format on request in accordance with the requirements of the Americans with Disabilities Act. No fee to cover the costs of providing records in an alternative format shall be charged. All other actual costs may be recovered, consistent with Board policies, administrative directives, and the public records law.
- (7) If the district requires clarification from the requester, such clarification shall be requested in writing, and the requestor shall be informed that work on the request will stop until the clarification is received. If the original scope of a request is likely to necessitate high fees, the Public Records Officer will offer to work with requesters to negotiate or narrow the scope in order to reduce the costs.

- (8) Requesters who believe the district has inappropriately withheld records or assessed fees may request an expedited review of such decisions by the Board, which will decide whether to hear the appeal and, if it does, issue a decision within 30 days. The Board's procedures will preserve the confidentiality of the records in question during such an appeal. Requesters retain their statutory right to request such review from the Multnomah County District Attorney, and the availability of an appeal to the Board does not preclude a requester from appealing a denial directly to the District Attorney rather than to the Board.
- (9) No District employee, student, or Board member may engage in unlawful retaliation against any person who requests public records or requests review of a public records decision. Any employee who engages in any form of retaliation for requesting public records, or requesting review of public records decisions, will be subject to disciplinary action up to and including dismissal.
- (10) To avoid possible conflicts of interest, no employee shall make the final decision on the application of exemptions to a given public records request if they are named in that request. If an in-house PPS attorneys is making the final decision on the application of exemptions applicable to a public records request and they also provided material legal advice regarding the records at issue prior to the records being requested (e.g. a personnel investigation), the in-house attorney shall disclose that fact to the Superintendent's designee prior to making the final decision. Any employee who knowingly and intentionally violates this paragraph will be subject to disciplinary action up to and including dismissal.