

SPOKANE COUNTY FIRE DISTRICT 8 – STANDARD OPERATING PROCEDURES

<h1>ACCESS TO PUBLIC RECORDS</h1>	<h2>10.09</h2>
	Ref. Policy: P 10.09 Developed: 10/1995 Changes: 08/1996; 03/2000; 06/2011 Approved: _____ Date: __/__/__ Page 1 of 8

DEFINITIONS

- 1. Public Records:** Public records of the District include any record containing information relating to the conduct or performance of any governmental function prepared, owned, used or retained by the District as defined in chapter 42.56 RCW. Public records do not include personal records of District employees or officials that may be in the possession of the employee or official or located in their office, lockers or living quarters.
- 2. Electronic Public Records:** Electronic public records of the District include all data compilation stored and retained on the District computers containing information relating to the conduct or performance of any governmental function prepared, owned, used or retained by the District. Electronic public records do not include personal materials entered or stored on District computers by employees and officials when using the computers for incidental personal use.
- 3. Record:** As used in this policy and procedure, the “record” available to the public for electronic stored records shall be a printout of the stored record.
- 4. Copy:** As used in this policy and procedure, a “copy” of a record shall mean a duplicate of the record in the same media, except that a “copy” of an electronic stored record shall mean a printout of the record, or in the sole discretion of the District Records Retention Officer, an electronic version in a commercially available format.
- 5. Records Retention Officer:** The District Records Retention Officer shall be the Fire Chief or his/her designee.
- 6. District Review Authority:** The District Review Authority shall be the District legal counsel.

RECORDS ACCESS AND COPYING

- 1. Computer Network:** In order to maintain the security of the records as required by RCW 42.56.100, the District computer hardware shall not be available to the public for review of electronic records.
- 2. Public Records Availability:** The records or printouts of all electronic public records of the District as defined above are available for public inspection pursuant to these rules, except as otherwise provided by chapter 42.56 RCW and other applicable statutes.

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- 3. Location of Records:** The District's public records shall be maintained at the District headquarters station or such other locations as the Board of Commissioners approves. All records shall be in the custody of the District Records Retention Officer who shall be responsible for the implementation of these rules.
- 4. Hours for Inspection and Copying:** Public records shall be available for inspection and copying during the normal office hours of the District which are from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays, unless different inspection times are acceptable to both the District and the requestor.
- 5. Requests for Public Records:** In accordance with the provisions of chapter 42.56 RCW public records may be inspected and copied, or copies obtained by members of the public as follows:
 - 5.1** Requests shall be made in writing to the District Records Retention Officer on a form provided by the District and shall include the following information:
 - 5.1.1.** The name and address of the person requesting the record.
 - 5.1.2.** The time of day and calendar date on which the request is made.
 - 5.1.3.** The nature of the request.
 - 5.1.4.** If the record requested is referenced in a current index maintained by the District, a reference to the requested record as it is described in such index.
 - 5.1.5.** If the requested record is not identifiable by reference to an index, an appropriate description of the record requested.
 - 5.1.6.** If the requested record is a list of individuals, a signed statement that the information obtained will not be used for commercial purposes.
 - 5.1.7.** A statement that the records, including lists of individuals, are not being requested for commercial purposes.
 - 5.2** All mailed requests shall contain the information described above and shall be mailed to the District headquarters station.
 - 5.3** In all cases in which a member of the public is making a request it shall be the obligation of the employee to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

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6. Exemption from Public Inspection:

- 6.1** The District reserves the right to determine that a record requested is exempt in whole or in part from public inspection under chapter 42.56 RCW or other applicable statutes.
- 6.2** In accordance with RCW 42.56.070 the District reserves the right to delete identifying details when it makes available any public record or printout of a public record in any case where there is reason to believe that disclosure of details would be an invasion of personal privacy protected by chapter 42.56 RCW or other applicable statutes. The employee who deletes information shall fully justify the deletion in writing.
- 6.3** All denials of requests for copies of public records shall be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record or portion of the record and a brief explanation of how the exemption applies to the record.

7. Duties of Records Retention Officer: The Records Retention Officer shall undertake the following analysis with respect to all records requests:

- 7.1** The Records Retention Officer shall review the request form and shall review the requested record to determine the nature of the information contained in the record and to determine whether or not the release of the requested record is exempt from public inspection under chapter 42.56 RCW or other applicable statutes.
- 7.3** If the record requested is classified as a medical record, the Records Retention Officer shall determine whether the patient has authorized disclosure of the medical record pursuant to RCW 70.02.030. In the absence of patient authorization, the Records Retention Officer shall determine whether the requester is an authorized recipient of the record as defined in RCW 70.02.050.
- 7.4** If the disclosure of the record requested is restricted by any other federal or state statute, the Records Retention Officer shall comply with the restrictions or the procedure required for the release of the requested information.
- 7.5** In the event it is determined that there would be no violation of the right to privacy by the disclosure of the record or any information contained in the record or that the information is not exempt from disclosure, the Records Retention Officer shall determine if the record may be inspected or copied in its entirety and if so, the inspection or copying shall be permitted.

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- 7.6** In the event the record contains confidential information and public information, the Records Retention Officer shall segregate the public information from the confidential information, prepare a copy of the record showing only the disclosable portion, and release or permit copying of only the public information.
- 7.7** In the event the record contains information that affects the privacy interest of a third party and the Records Retention Officer reasonably believes that an argument could be made that the record is exempt, the Records Retention Officer shall provide notice, in accordance with RCW 42.56.540, to the affected third party of the District’s intent to disclose the record.
- 8. Response to Request For Records:** The Records Retention Officer, within five business days after receipt of the request (within fifteen business days of a patient’s request for the patient’s medical records) shall take one of the following actions:
- 8.1** In the event the Records Retention Officer determines that the request requires clarification, the Records Retention Officer shall acknowledge receipt of the request and ask the requester to clarify what record the requester is seeking. If the requester fails to clarify the request, the Records Retention Officer shall provide no further response.
- 8.2** In the event the Records Retention Officer determines that a full response will take longer than five business days after receipt of the request the Records Retention Officer shall acknowledge receipt of the request and provide a reasonable estimate of when the District will respond. The determination of the time required to respond to the request will be based on a consideration of the following factors:
- 8.2.1.** Clarity of the request.
 - 8.2.2.** Time required to locate and assemble the information requested,
 - 8.2.3.** Time required to notify third persons or agencies affected by the request.
 - 8.2.4.** Time required to determine whether any of the information requested is exempt.
 - 8.2.5.** Time required to obtain the consent of a person identified in the record if consent is required by statute.
 - 8.2.6** Current staffing levels and essential job functions that must be performed by staff prior to locating and assembling the record requested.
 - 8.2.7** Volume of pending public records requests. The general policy of the District shall

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be to respond to records requests on a first come first serve basis. However, the Records Retention Officer retains discretion to respond to requests out of order of receipt when such out of order responses are more efficient.

8.2.8 Impact on Essential Functions. The Records Retention Officer has numerous duties in addition to responding to records requests that are essential to the effective operation of the District. In situations where the Records Retention Officer is unable to perform the essential duties and respond to all pending records requests, the Records Retention Officer shall notify the Board of Commissioners to determine the appropriate action.

8.3 Provide the record for inspection or provide a copy of the record if requested. For large requests the District shall attempt, where feasible, to release the records in reasonable installments as the records become available.

8.4 Deny the request.

8.4.1. All denials shall contain the information specified in paragraph 6.3.

8.4.2. Denials of a patient's request for the patient's medical records shall comply with the requirements specified in RCW 70.02.090.

9. Review of Denials:

9.1 Any person who objects to the denial of a request to inspect or copy a public record may petition for a prompt review of the decision by submitting a written request for review to the District Records Retention Officer.

9.2 Upon receipt of a written request for review of a decision denying inspection or copying of a public record, the District Records Retention Officer shall refer it to the District Review Authority. The District Review Authority shall promptly review the matter and either affirm or reverse the denial. The final decision shall be rendered to the individual who requested the record within two business days after the review request.

9.3 In the event the request for the record or information from the record is made by an elected or appointed official of the District, the information is deemed to be needed for the proper performance of the official's duties and consent to the release of the information is required but cannot be obtained, the official shall be required to sign a confidentiality agreement before being allowed access to the requested information.

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- 9.4** Administrative remedies shall not be considered exhausted until the District has returned the request with the decision or until a period of five business days has elapsed after the denial of the request or after the review of the initial denial.
- 10. Fees:** The following charges shall be imposed to reimburse the District for costs incurred in providing public records. In the event the District is requested to mail copies, an additional charge in the amount of the actual or estimated postage and the cost of the container shall be made.
- 10.1 General Records:** With the exception of medical incident reports, the District shall charge a fee of fifteen cents per page for providing a copy of each page of a District record. The Records Retention Officer may waive copying fees as a matter of administrative convenience for small requests.
- 10.2 Electronic Records:** With the exception of medical incident reports, the District shall charge a fee of fifteen cents per page for providing a printout of a District electronic record. If records are provided in electronic format the District shall charge a fee of fifteen cents per scanned page plus the cost of the media on which the record is disclosed (CD, DVD, etc). No charge shall be imposed for the cost of emailing an electronic record.
- 10.3 Medical Incident Reports:** In accordance with chapter 70.02 RCW the District shall charge the rates established by the Department of Health (WAC 246-08-400) which until June 30, 2013, establishes a clerical fee for searching and handling requests for medical incident reports of \$23.00 for each report. In addition, the District shall charge \$1.04 per page for the first 30 pages and \$.79 per page for all additional pages of each report copied or printed out. The Records Retention Officer may waive copying fees as a matter of administrative convenience for small requests.
- 10.4 Video and Audio Tapes:** The District shall charge the actual cost it incurs in commercially duplicating audio or visual tape records.
- 11. Records Index:** The District may not maintain a complete current index which provides identifying information as to all of the records maintained by the District when, due to staffing and resource levels, the creation of a complete index would be unduly burdensome to the District.

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**STATUTORY PROVISIONS THAT MAY AFFECT THE DISCLOSURE
OF RECORDS BY A FIRE PROTECTION DISTRICT**

Attorney Client Privilege	RCW 5.60.060
Industrial Insurance	RCW 51.16.070
	RCW 51.48.040
	RCW 51.28.070
Juvenile Justice	Ch. 13.50 RCW
Alcohol & Drug Abuse Treatment.....	RCW 70.96A.150
Mental Health	RCW 71.05.390
Domestic Relations	RCW 26.09.225
Sexually Transmitted Diseases	Ch. 70.24 RCW
Health Care Information Act.....	Title 70 RCW
Background Checks	RCW 43.43.830 -.840
	WAC 446-20-300
Open Public Records Act.....	Ch. 42.56 RCW
Address Confidentiality for Victims of Domestic Violence	Ch. 40.24 RCW
Mental Health Services for Minors.....	Ch. 71.34 RCW
Americans with Disabilities Act	42 USC Sec. 12101 <i>et. seq.</i>
Occupational Safety and Health Act.....	29 USC Sec 657 <i>et seq.</i>
Federal Law on Substance Abuse Records	42 USC Sec. 290dd-2
Washington Industrial Safety and Health Act.....	Ch. 49.17 RCW

Most of the federal or state agencies that administer the above acts have adopted regulations to implement the acts. The regulations must be reviewed together with the acts when reviewing record requests.

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REQUEST FOR PUBLIC RECORDS

NAME OF REQUESTER: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: _____ EMAIL ADDRESS: _____

NATURE OF REQUEST:

Identification of Records: _____

Inspection Only: _____ Number of Copies Requested: _____

I declare under penalty of perjury under the laws of the State of Washington that I do not intend to use any list of individuals that may be covered by this request for commercial purposes.

Signature _____ Date: _____

For Office Use Only:

Request	Record	Record Withheld
Granted _____	Withheld _____	In Part _____

If consent is needed, the name of individual: _____

If withheld, identify the exemption contained in chapter 42.56 RCW or other applicable statute that authorizes the withholding of the record or part of record:

If withheld, explain how the exemption applies to the record withheld:

Signature _____ Date Complete: _____ Time _____