

ACCESS TO PUBLIC RECORDS

Policy 823

Waunakee Community School District

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{This sample policy (1) designates a primary legal custodian of records and one or more deputies to the primary custodian; (2) attempts to clarify the respective roles of individual board members and the legal custodian of records in connection with any records of the board member's individual office; (3) assigns duties and responsibilities to the records custodian and others; and (4) identifies the district's "local public offices" for purposes of the public records law. In terms of fees charged to requesters, this sample policy specifies that the board will approve a schedule of authorized fees and also permits the records custodian to reduce or waive applicable fees where the custodian determines that such a waiver or reduction is in the public interest.}

The various records authorities of the _____ Waunakee Community School District shall maintain and provide access to public records in accordance with applicable laws and the policies and procedures of the District. In addition, all officials, employees, and authorized agents of the District shall, to the extent appropriate to the particular record, safeguard the confidentiality of personally-identifiable information in their possession and in the records created or maintained by any school District authority.

The District's public records notice, as adopted by the Board, shall be prominently posted in the District's buildings. The notice shall also promptly be made available to any member of the public for inspection and copying. *{insert if desired: "For additional convenience, and the notice may also be posted on the District's website."}*

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Legal Custodian of the Records of School District Authorities

The *{insert position title(s): "District Administrator"}* shall serve as the legal custodian of records for the following District records authorities: *{Editor's Note: State law permits the board to designate one or more positions as a legal custodian of records. As further covered below, this sample also designates deputy custodians who have authority to act as a legal custodian under certain conditions.}*

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1. The District, including the School Board as the governing body;
2. All committees which are subunits of the Board;
3. Other District records authorities created by law or by rule or order;
4. The individual members of the School Board, including the individual officers of the Board (i.e., President, Vice President, Clerk, Treasurer, *{include "Secretary" if the district is a unified school district}*). However:
 - a. Each Board member remains a records authority and co-custodian of the records of their individual public office.
 - b. As to any records of his/her office that a Board member may create or maintain solely at any location or on any computer system that is not owned or controlled by the District, the Board member shall have responsibility for the proper maintenance and retention of such records.
 - c. Board members and officers shall cooperate with the Board-designated custodian of records in responding to public records requests encompassing records of their individual office, except that an individual board member may take sole responsibility for responding to a request if all of the following apply: (1) the Board member (and not the

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Board-designated custodian of records) has individually received a request for records in the Board member's capacity as an individual records authority; (2) the Board member assumes all legal responsibility for responding to the request; and (3) the request deals exclusively with records of such Board member's office that are in the possession or control of the Board member and that are **not** otherwise available to the Board-designated custodian. **Editor's Note: This provision addresses issues that present significant questions of legal interpretation and that have significant implications for local practices. The district may wish to seek legal advice regarding the handling of records (and requests for records) that are in the possession and control of individual board members.**

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The Executive Director of Operations ~~(identify the position(s) held by the deputy(ies))~~ shall serve as a deputy custodian of records in the event that the primary custodian is absent or otherwise requires assistance in responding to requests for records. In addition, each principal employed by the District shall serve as a deputy custodian concerning the education records of the students presently attending school in their building(s) or programs, as well as those student records which are otherwise maintained at their respective building(s). The legal custodian may designate one or more additional deputies as needed.

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The legal custodian of records is vested with full legal power to render decisions and carry out the duties of each school District records authority designated above, as such duties are identified under the Wisconsin Public Records Law. For example, the legal custodian shall:

1. Receive, evaluate, and respond to requests to inspect or copy records;
2. Compel the prompt assistance of other District employees in responding to requests for access to public records, to the extent the custodian deems necessary;
3. Take an active role, either personally or via a designee or via written procedures, in supervising the proper maintenance and retention of records by District employees; and
4. Ensure that all employees who are entrusted with the records that are subject to the legal custodian's supervision are notified of the identity of the legal custodian and provided with a description of the legal custodian's duties under applicable law.

The District Administrator, or his/her designee, working in conjunction with the individual school official who has been assigned specific responsibility for ensuring the confidentiality of all personally-identifiable data, information, and records collected or maintained by the District under the Individuals with Disabilities Education Act (IDEA), shall (1) develop rules of conduct for District employees who are involved in collecting, maintaining, using, providing access to, sharing or archiving personally-identifiable information; and (2) ensure that all such employees know their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws.

Neither the designation of a legal custodian of records nor any other provision of this policy shall be interpreted to affect the powers and duties of any District records authority under the Public Records Law.

Authorized Fees under the Public Records Law

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Fees may be charged for costs associated with locating and/or copying requested records and for related postage/shipping costs in accordance with the fee schedule adopted by the Board. The fee schedule shall be included in the District's posted public records notice.

The legal custodian of records may provide copies of a record without charge or at a reduced charge where the custodian determines that a waiver or reduction of the fee is in the public interest. These situations include, but are not necessarily limited to, situations where the records custodian determines that the costs the District would be likely to incur in processing a payment would be likely to exceed the amount of the payment itself; or where the requester is an elected official, the records in question are reasonably necessary for the proper performance of official duties, and the location costs associated with the request are negligible. The legal custodian shall apply any such waiver or reduction of fees with reasonable uniformity and without discrimination as to any status protected by law (e.g., race, sex, disability, etc.). ***{Editor's Note: This paragraph authorizing fee waivers is optional and could be deleted. However, most districts prefer to grant the custodian of records discretion to waive/reduce fees. Waiver/reduction of fees "in the public interest" is expressly permitted under the Public Records Law.}***

In a situation where any fees differing from the fees approved by the Board are established by law, or are authorized to be established by law, those other fees may be charged.

Assistance from Legal Counsel

When the legal custodian of records, or a deputy custodian in the absence of the legal custodian, determines that it is necessary or prudent to do so, he/she is authorized to seek specific legal advice from and engage the assistance of District legal counsel. ~~*{Insert if desired: In the event that District legal counsel is contacted for representation in connection with a records request, the individual making such contact shall ensure that the Board President is promptly notified of the expected scope of such legal representation if it will extend beyond a brief initial consultation.}*~~

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Local Public Offices

{Editor's Note: As an alternative to listing the district's local public offices in this policy, the text of this section could be replaced with the following brief statement: "The offices and positions that are considered "local public offices" for purposes of the Wisconsin Public Records Law are listed in the District's posted public records notice."}

Several positions within the district constitute local public offices for purposes of the Wisconsin Public Records Law, including the following positions:

1. Seats held by individual Board members
2. Officers of the School Board
3. District Administrator
- ~~4. Elementary School Principal *{if applicable}*~~
- ~~4-5. Intermediate School Principal~~
- ~~5-6. Middle School Principal *{if applicable}*~~
- ~~6. High School Principal *{if applicable}*~~

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- ~~7. [The Director of Business Services, if applicable]~~
- ~~8. Identify any other positions within the District that are deemed to be local public offices. [Executive Director of Operations]~~

~~***{Editor's Note: If the board chooses to maintain the above list of the district's "local public offices" directly in this policy (compare the alternative language offered in the note at the beginning of this section), the board must ensure that the list is kept current and that the list of local public offices identified in the district's posted public records notice is consistent with this list.}***~~

Records Management and Retention

~~***{Editor's Note: This section is optional within this policy and could be deleted. The WASB recommends that school boards adopt a separate and more comprehensive policy on the topic of records management and retention, such as a policy based on PRG 823.1 Sample Policy 1. If a district does not follow the recommendation to adopt a separate policy, then the district should consider replacing the short statement below with the entirety of Section III ("Adoption of General Records Schedules and State-Level Approval of other Records Disposition Authority") and Section IV ("Records Retention and Disposition") from PRG 823.1 Sample Policy 1.}***~~

All officers, officials, employees, and other agents of the District are expected to adhere to applicable laws and District policies relating to the management of District records. The records of the District and of any District records authorities shall be retained and disposed of consistent with applicable laws and District policies, including any records retention schedule(s) or other records disposition authority that the District has formally adopted through the authority and procedures of the Wisconsin Public Records Board.

Legal References:

Wisconsin Statutes

- [Sections 19.21 – 19.39](#) [Public Records Law and related statutes]
- [Section 19.65](#) [rules of conduct and training for employees involved in management of personally identifiable information]
- [Section 19.70](#) [rights of data subjects to challenge records]
- [Section 118.125](#) [state pupil records law]
- [Section 120.13\(28\)](#) [board authority to designate legal custodians]

Federal Laws

- [34 C.F.R. Part 99](#) [regulations implementing the Family Educational Rights and Privacy Act (FERPA)]
- [34 C.F.R. §300.623](#) [confidentiality safeguards regarding IDEA-related records]

Cross References:

WASB PRG 823 Sample Policy 1

¹ You can delete this section if your board adopts the draft 823.1 Records Management and Retention that I sent to you with the 700 series policies.

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