

KITSAP COUNTY HEALTH DISTRICT POLICIES/PROCEDURES		
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Applies To: All Staff, Contractors, Interns, and Volunteers		

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A. AUTHORITY AND PURPOSE

This policy is based on model rules developed by Washington State's attorney general to ensure compliance with the Washington State Public Records Act ("Act"). The model rules contained in WAC 44.14 provide information to records requestors and state and local agencies about "best practices" for complying with the Public Records Act contained in RCW 42.56. The purpose of these rules, as set forth in this policy, is to establish the procedures the Health District ("District") will follow to provide full access to public records. This policy provides procedures for persons wishing to request access to public records of the District and establishes processes for both requestors and District staff to best assist members of the public in obtaining such access.

B. PUBLIC RECORDS ACT

1. **Purpose of the Act.** The purpose of the Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and this policy will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the District will be guided by the provisions of the Act describing its purposes and interpretation.
2. **Scope of Coverage of the Public Records Act.** The Act applies to all state and local agencies, including the District. The Act requires the District to make available for inspection and copying nonexempt "public records" in accordance with published rules.
3. **Public Record Defined.** The Act defines "public record" to include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the District. The Act requires the District to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by the District.

The District will use a three-part test to determine if a record is a public record. The document must be: a "writing", containing information "relating to the conduct of government" or the performance of any governmental or proprietary function, "prepared, owned, used, or retained" by the District. Further clarification is provided below:

- a. **Writing.** A public record can be any writing regardless of physical form or characteristics. "Writing" is defined very broadly as: handwriting, typewriting, printing, photocopying, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, e-mail, and other documents including existing data compilations from which information may be obtained or translated.

- b. Relating to the Conduct of Government.** To be a public record, a document must relate to the "conduct of government or the performance of any governmental or proprietary function." A purely personal record having absolutely no relation to the conduct of government is not a public record. Even though a purely personal record might not be a "public record," a record of its existence may be. A record showing the existence of a purely personal e-mail sent by a District employee on a District computer may be a public record, even if the contents of the e-mail itself were not.
- c. Prepared, Owned, Used, or Retained.** A "public record" is a record prepared, owned, used, or retained by the District. A record can be used by the District even if the District does not actually possess the record. For example, if the District uses a record in its decision-making process, it is a public record.

If an employee works on agency business on a home computer, and if these home computer records (including e-mail) were used by the District and relate to the conduct of government, these records are public records. Because the home computer documents relating to District business are public records, they are subject to disclosure (unless exempt). All employees that generate public records, regardless of where they were created, should eventually store these records on District computers.

All employees should keep agency-related documents on home computers in separate folders and to routinely copy work e-mails back to the employee's District e-mail account. If the District receives a request for records that are solely on employees' home computers, the District will direct the employee to forward any responsive documents back to the District, and the District should process the request as it would if the records were on the District's computers.

C. IMPLEMENTING PROCEDURES

1. Summary of District Records Policies

The District has three distinct policies that address public records. The three policies are summarized below:

- a. Public Records Access (Legal Policy L-3):** This policy provides procedures to comply with Washington State's Public Records Act (Chapter 42.56 RCW). This policy establishes the District procedures to provide full public access to all District public records, unless the record is otherwise exempted under federal or State law. The procedure also provides specific procedures for public records requestors. The procedure provides for the fullest assistance to requestors and the timeliest possible action on requests for information. Consistent with the Act, the procedures also allow the District to take reasonable precautions to prevent excessive interference with other essential District functions due to records requests.
- b. Protecting Confidentiality of Health Information (Legal Policy L-2):** This policy provides procedures for safeguarding confidential client medical records that contain

protected health information (PHI) as required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Washington State law. Among other things, this policy contains procedures that explain how certain information from these records may be released following receipt of a properly executed records release, or receipt of a properly executed subpoena duces tecum or court order as allowed under federal or State law. It also contains procedures to protect the identity of complainants, when required, in complaint records filed with the District's Environmental Health Division.

- c. **Records Management (Administrative Policy A-__):** This policy will establish management procedures for District records, both public records and confidential records, to protect these records from damage or disorganization over the life span of the record from creation to final disposal. This policy will also provide disaster recovery procedures that protect and/or restore "essential" District records, defined as records necessary for the continued functioning of the District in an emergency.

2. District Description

- a. **Contact Information.** The District provides a wide range of public health services, through its Community Health, Environmental Health, and Administrative Services Divisions. The District's is located at 345-6th Street, Suite 300, Bremerton, Washington 98337-1866..
- b. **Public Records Officer.** Any person wishing to request access to public records of the District, or seeking assistance in making such a request should contact the District's Public Records Officer, or his/her designee. Contact information for the Public Records Officer is:

Public Records Officer
Kitsap County Health District
345-6th Street, Suite 300
Bremerton, WA 98337
(360) 337-5235 (phone)
(360) 337-5298 (fax)

Contact information for the District's Public Records Officer is also available on the District's web site at kitsapcountyhealth.com.

The District's Public Records Officer oversees compliance with the Act, but another District staff member may process the request. Therefore, this policy refers to the Public Records Officer or designee.

The Public Records Officer or designee and the District will ensure that public records are protected from damage or disorganization and prevent fulfilling public records requests from causing excessive interference with essential functions of the District.

3. **Access to District Public Records Procedures.** The District will publish its public records policies, organizational information, and methods for requestors to obtain public records. The District's public records access policy is posted at the District's Main Office at 345-6th Street, Bremerton, WA 98337-1866. In addition, the District will post its public records access policy on the District's web site at www.kitsapcountyhealth.com.
4. **Availability of Public Records – Hours for Inspection.** Public records are available for inspection and copying during the District's normal business hours, 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding legal holidays, at the District's Main Office at 345-6th Street, Suite 300, Bremerton, Washington 98337-1866. The District also provides access to certain of the District's public records on the District's web site at www.kitsapcountyhealth.com.
5. **Records Index.** In General. The Public Records Act requires all public agencies to maintain and make available a current index of certain public records. However, the Public Records Act also provides that if maintaining such an index would be unduly burdensome, or would interfere with agency operation, a public agency need not maintain such an index but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome.
6. **Organization of Records.** The District will implement policies and procedures that protect its records from damage and disorganization. These are contained in the District's Records Management Policy/Procedure.
7. **Making a Request for Public Records.** Any person wishing to inspect or copy public records of the District should make the request in writing on a District request form (see **Attachment A** for copies of District request forms), or by letter, fax, or e-mail addressed to the Public Records Officer and include the following information:
 - a. Name of requestor;
 - b. Address of requestor;
 - c. Other contact information, including telephone number and any e-mail address;
 - d. Identification of the public records adequate for the Public Records Officer or designee to locate the records; and
 - e. The date and time of day of the request.

Requests for medical records must adhere to requirements established in the Health Insurance Portability and Accountability Act of 1996 and Washington State law. Procedures addressing medical records are contained in District Policy L-2.

If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records. Standard photocopies will be provided as specified on the District's current fee schedule.

The District's current fee schedule may be inspected on the District's web site at www.kitsapcountyhealth.com. The District has an obligation to safeguard public records; therefore, requestors may not remove public records from District premises for the purpose of reviewing or copying the records.

A form to request public records is available for use by requestors at all District offices and on-line at www.kitsapcountyhealth.com.

The Public Records Officer or designee may also accept requests for public records that contain the above information by telephone or in person. If the Public Records Officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

A variety of records are available on the District web site at www.kitsapcountyhealth.com. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

8. **Retention of Records.** The District retains its records following an approved records retention schedule for local health districts developed by the Washington State Secretary of State and available on its web site at www.secstate.wa.gov/archives. Public records are destroyed when they have reached the end of their useful life as described in the retention schedule. Also see Section C.10.i. of this policy.
9. **Training.** All District employees receive basic training on public records compliance and records retention. Members of the District's records committee and the Public Records Officer receive more thorough, ongoing training with the goal of ensuring compliance with public records laws and to ensure that the District's records are managed effectively and efficiently.
10. **Processing of Public Records Requests – Responsibility of the District.**
 - a. **Access to Records.** This policy describes the District's procedures for providing full access to public records, protecting records from damage or disorganization, preventing excessive interference with other essential functions of the agency, providing fullest assistance to requestors, and providing the most timely possible action on public records requests. Providing access to public records is one of the District's essential duties along with its other functions. The Public Records Officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner within the requirements of this policy and Washington law.
 - b. **Acknowledging Receipt of Request.** Within five business days of receipt of the request, the Public Records Officer or designee will do one or more of the following:
 - 1) Make the records available for inspection or copying;

- 2) If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, copies are sent to the requestor;
 - 3) If the records will not be available within five business days of the request, District staff will provide a reasonable estimate of when records will be available. Reasonable estimates will vary based on the size of the request. After the reasonable estimate is communicated to the requestor, and if additional time is needed to fulfill the request, the District will communicate to the requestor that additional time is needed.
 - 4) If the request is unclear or does not sufficiently identify the requested records, the Public Records Officer or designee will request clarification from the requestor. Such clarification may be requested and provided by telephone, e-mail, or fax. Written requests for clarification are preferred to establish a record of the clarification request made by the District. Upon receiving the clarification, the Public Records Officer or designee may revise the estimate of when records will be available. If the District revises its estimate of the time necessary to respond to the request, District staff will communicate the revised estimate to the requestor and note the change on the records request form; or
 - 5) Deny the request in writing with a statement of the reasons for denial.
- c. **Failure to Respond.** If the District does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the Public Records Officer to determine the reason for the failure to respond.
 - d. **Protecting the Rights of Others.** In the event that the requested records contain information that may affect the rights of others and may be exempt from disclosure, the Public Records Officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.
 - e. **Reasonable Search.** The District will make a reasonable search for records responsive to the records request.
 - f. **No Duty to Create Records.** While the District is not obligated to create a new record to satisfy a records request, it is sometimes easier to create a record responsive to the request rather than collecting and making available extensive records that contain small pieces of information sought by the requestor. The decision to create a new record is left to the District's discretion. Before creating a new record, the District will obtain the consent of the requestor to ensure that the requestor is not actually seeking the underlying records.

g. Records Exempt from Disclosure. Public records identified as exempt in RCW 42.56.210 through 42.56.480, or identified in any other statutes as exempt from disclosure, are exempt from disclosure under this policy. Protected health information and electronic protected health information identified in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the implementing Privacy and Security Rules at 45 CFR Parts 160 and 164, are exempt from disclosure. If the District believes that a record is exempt from disclosure and should be withheld, the Public Records Officer or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer or designee will redact the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted. Examples of exempt records include but are not limited to client and employee medical records, attorney-client records, employment applications, and most information contained in staff personnel files. Any request for personnel-related records shall be forwarded to the District's Personnel Department for a response.

h. Inspection of Records. Consistent with other demands, the District provides space at its Main Office for the public to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. To preserve the integrity of the District's records, District staff are present at all times when documents are being inspected. There is no charge for locating records or for inspection of public records.

The requestor must claim or review the assembled records within thirty days of the District's notification to him or her that the records are available for inspection or copying. The District will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the District may close the request and re-file the assembled records. The District may process other public records requests ahead of a subsequent request by the same person for the same or almost identical records, which will be processed as a new request.

i. Preserving Requested Records. If a requested record is scheduled for destruction, and the District receives a public request for it, the record will not be destroyed until the request is resolved. Once a request has been resolved, the District will destroy the requested records in accordance with the District's records retention schedule.

j. Providing Copies of Records. The Public Records Officer or designee shall make the requested copies or arrange for copying. Standard black 8 ½ x 11-inch photocopies will be provided as specified on the District's current fee schedule. The District's current fee schedule may be inspected on the District's web site at www.kitsapcountyhealth.com. For large requests, the Public Records Officer or designee may require a deposit of up to ten percent of the estimated cost of copying. Copies may be mailed at the requestor's

request. The District charges for the actual cost of mailing and for providing nonstandard copies such as engineering drawings or photographs.

- k. Providing Records in Installments.** When the request is for a large number of records, the Public Records Officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty calendar days, the requestor fails to inspect the entire set of records or one or more of the installments, the Public Records Officer or designee may stop searching for the remaining records and close the request.
- l. Certification of Record.** Upon the request of the person requesting the record, the District shall certify the record furnished. The certification shall be affixed to the record and disclose the date the record was certified.
- m. Denying a Request.** The District may deny a request when the District does not have the record or the record is exempt from disclosure. If only a portion of the requested record is exempt, the District will redact out the exempt portion on the requestor's copy and provide the remainder of the record.
- n. Internal Review of a Denied Request.** Within two business days after the initial denial of a records request, the Public Records Officer or designee will review the decision to deny the records request.
- o. Requestor Petition of Denied Records Request.** Any person who objects to the denial or partial denial of a records request may petition in writing, including e-mail, the Public Records Officer for a review of the decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request.

The Public Records Officer shall promptly provide the petition and any other relevant information to the Health Officer. The Health Officer, Deputy Director, or designee of either will immediately consider the petition and either affirm or reverse the denial within two business days following the District's receipt of the petition, or within such time as the District and the requestor mutually agree to.

- p. Completed Request.** When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer or designee should close the public records request by retaining a copy of the request and sending a copy to the requestor.

Records requests for septic system as-builts may be responded to via e-mail. The e-mail responses are retained in an "As-built" e-mail directory and retained per the records retention schedule.

- q. Closing a Withdrawn or Abandoned Request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay for the

requested copies, the Public Records Officer will close the request and send via U.S. mail a copy of the closed request to the requestor. The District may contact a requestor to clarify an unclear request. If the requestor does not respond to the District's request for a clarification within thirty calendar days of the District's request, the District will consider the request abandoned. If the District considers the request to be abandoned, it will send a closing letter to the requestor.

- r. **Later Discovered Documents.** If, after the District has informed the requestor that it has provided all available records, later becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

11. Requesting Public Records – Responsibilities of Requestors

- a. **Reasonable Notice.** A requestor must give the District reasonable notice that the request is being made pursuant to the Act.
- b. **Identifiable Record.** A requestor must request an "identifiable record" or "class of records" in his or her records request before the District can respond to it. An "identifiable record" is defined as one that District staff can reasonably locate. Requestors may not search through District files for records that cannot be reasonably identified or described to the District.

When the District receives a request that is unclear, the District will seek clarification from the requestor to obtain a reasonable description of the record to enable District staff to locate the desired record(s). If a verbal clarification of a request is made, for example, in a telephone conversation, staff should record the clarification on the record request form.

Requests made for records that are not identifiable may be denied. The District will notify requestors in writing if their request has been denied.

- c. **Large Copy Requests.** The District may ask requestors with large requests to prioritize the request so that he or she receives the most important records first. The District will not deny a request simply because it is for a large number of records. District staff will stay in contact with requestors with large requests to keep them informed of the progress in filling the request.
- d. **Disclosure of Purpose of Request.** Requestors are not required to disclose the purpose of the request except if staff need to determine if the request is for a commercial use or would violate another statute prohibiting disclosure. For example, if a requestor submits a public records request that will result in a list of individuals, District staff will clarify the purpose for the request. Washington state law prohibits the District from providing public records consisting of a list of individuals for a commercial use.

Requests made for records that are not proper, as described above, will be denied. The District will notify requestors in writing if their request has been denied.

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