

## **ACCESS TO PUBLIC RECORDS**

### Public Records Act

California has enacted the Public Records Act. In compliance with this act, Monterey County Board of Education establishes this policy covering guidance and procedures concerning access to public records by members of the public.

### Public Records

"Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

"Writing" means handwriting, typewriting, printing, Photostatting, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds or symbols or a combination thereof, and any record thereby created, regardless of the manner in which the record has been stored.

### Availability of Public Records

Public records are open to inspection at all times during Monterey County Office of Education regular office hours.

### Assistance to Public

Upon receiving such a request, in order to assist the individual to make a focused and effective request that reasonably describes an identifiable record, MCOE staff shall:

1. Assist the requestor to identify records and information that may be responsive to a request.
2. Describe the information technology and physical location in which the records exist.
3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

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### Request for Public Record

A standard form requesting to inspect or obtain a copy of a public record shall be made available to the requestor.

### Time Limits for Responding to Request for Records

Upon a request for a copy of record(s), MCOE shall within ten (10) days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of MCOE, and shall promptly notify the person making the request and the reasons therefore. In the event of "unusual circumstances" the ten (10) day limit may be extended by written notice by the Superintendent or his/her designee to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched . The extension may not be longer than fourteen (14) days. The requestor will be informed of the estimated date and time when records will be made available.

Unusual Circumstances means:

1. Need to search for and collect the requested records from facilities or other establishments separate from the location processing the request.
2. Need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records, which are demanded in a single request.
3. Need for consultation, which shall be conducted with all practical speed, with another agency having substantial interest in the determination of the request or among multiple components of MCOE having substantial subject matter interest therein.
4. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

### Cost Reimbursement

The requestor shall bear the cost of producing a copy of the record. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format including the cost to construct a record, and the cost of

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programming and computer services necessary to produce a copy of the record when either of the following applies:

1. MCOE staff would be required to produce a copy of an electronic record that is produced only at otherwise regularly scheduled intervals.
2. The request would require data compilation, extraction, or programming to produce the record.

### Miscellaneous Provisions

MCOE would not have to reconstruct a record in an electronic format if the record is no longer available in electronic format. If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requestor that the information is available in electronic format. However, nothing in this policy shall be construed to permit an agency to make information available only in an electronic format. Also, nothing in this policy shall be construed to require MCOE to release an electronic record in the electronic form in which its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained. Finally, nothing in this policy shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

### Notification of Denial

Any notification of denial of any request for records shall include the names and titles or positions of each person responsible for the denial.

### Records Open to the Public

Records to which the public shall have access during normal business hours include but are not limited to:

1. Proposed and approved budget. (Government Code 6252; Education Code 42103)
2. Reports and memoranda. (Government Code 6252)
3. Statistical compilations. (Government Code 6252)
4. Notices and bulletins. (Government Code 6252)

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5. Minutes of public meetings. (Government Code 6252)
6. Meeting agendas. (Government Code 6252, 54957.5)
7. Official communications between government branches. (Government Code 6252)
8. School based programs. (Education Code Sections 52850, 54722)
9. Information and data relevant to the evaluation and modification of school improvement plans. (Education Code Section 52015.5)
10. Initial proposals of exclusive employee representatives and of the MCOE. (Government Code 3547)
11. Tort claims filed against MCOE. (71 Ops. Cal. Atty. Gen. 235, 1988)
12. Records pertaining to pending litigation that predate the filing of the litigation, unless otherwise protected by the attorney-client privilege. (Government Code 6254.25)
13. Statements of economic interest required by the Conflict of Interest Code. (Government Code 81008)
14. Contracts of employment and settlement agreements. (Government Code 53262)

Confidential Records

MCOE shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of the Government Code or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

Records to which the general public shall not have access include but are not limited to:

1. Personnel records, medical records, student records, personnel correspondence, or similar materials the disclosure of which would constitute an unwarranted invasion of privacy. (Government Code 6254)

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## 2. Home addresses and telephone numbers of employees. (Government Code 6254.3)

Home addresses and telephone numbers of employees may be disclosed only as follows:

- a. To an agent or a family member of the individual to whom the information pertains.
  - b. To an officer or employee of a state agency or another school district or county office of education when necessary for the performance of its official duties.
  - c. To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, unless the employee performs law enforcement-related functions or requests in writing that the information not be disclosed. (Government Code 6254.3)
  - d. To an agent or employee of a health benefit plan providing health services or administering claims for health services to MCOE or school district employees and their enrolled dependents, for the purpose of providing health services or administering claims for employees and their enrolled dependents. (Government Code 6254.3)
3. Test questions, scoring keys and other examination data except as provided by law. (Government Code 6254)
  4. Records specifically prepared for litigation to which MCOE is a party, or records otherwise protected by attorney-client privilege. (Government Code 6254, 6254.25, 71 Ops. Cal. Atty. Gen. 235, 1988)
  5. Recall petitions or petitions for the reorganization of school districts. (Government Code 6253.5)
  6. Minutes of Board meetings held in closed session. (Government Code 6253.5)
  7. Preliminary drafts, notes, or interagency memoranda that are not retained by MCOE in the ordinary course of business, provided that the public

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interest in withholding these records clearly outweighs the public interest in disclosure. (Government Code 6254)

8. Computer software developed by MCOE. (Government Code 6254.9)
9. Any other records listed as exempt from public disclosure in the Public Records Act or other statutes. (Sub (k) Government Code 6254, 6276, et seq.)

The County Superintendent of Schools (Superintendent) or his or her designee shall be responsible for ensuring that procedures described in this policy are carried out, and is authorized to make the necessary decisions needed to ensure proper functioning of the procedures.

Legal Reference: Government Code Sections 6250-6268, 6253.9, 6276, et seq.

Adopted: 8/04/99

Reviewed: 1/2001; 2/2002; 10/2004

Revised: 2/07/01; 3/20/02; 10/20/04