

RESPONSE TO REQUEST FOR RECORDS

- 1. SUBPOENA FROM ATTORNEY OR COURT**
- 2. PUBLIC RECORDS REQUEST**
- 3. REQUEST FROM PARENT FOR RECORDS RELATING TO HIS/HER CHILD**

CATEGORY 1 – SUBPOENA FROM ATTORNEY OR COURT

1. The court document will say it is a subpoena. It will have a case caption showing who the parties are that are in court. The subpoena must be issued by the court or one of the attorneys.
2. Immediately forward the subpoena to the principal.
3. If the request is for student records, the district must make a reasonable effort to notify the parent that the subpoena has been received and give them an opportunity to object to the subpoena by asking the court to quash or narrow the subpoena.
4. If a student or parent advises a staff member that they object to the subpoena, refer the student or parent to the principal and also immediately notify the principal yourself so that he/she is aware of the objection.
5. After the district has made a reasonable effort to notify the parent and given the parent an opportunity to object to the subpoena, typically all records will be supplied without redaction.
6. Usually both parties to the dispute want copies of the records, not just the one who made the request. The district may charge for the copies.

CATEGORY 2 – PUBLIC RECORDS REQUEST

1. The request will either say it is a public records request or that records are requested under RCW 42.56. Such requests may come from anyone. No special form is required to make the request.
2. Immediately forward the records request to Jennifer Farmer, Director of Business Services. The initial response to the request must be made within 5 business days so do not delay in sending the request to her via fax or email.

3. Certain records are exempt from public disclosure and other records may be redacted (certain information blacked out). A log must be provided to the requester showing the records that have been withheld and the basis for withholding them. In addition, the district must indicate on the record the basis for a redaction.
4. Public records requests and responses to public records requests must be maintained for at least one year.
5. Common exemptions from disclosure under the Public Records Act:
 - Requests for lists of individuals requested for commercial purposes. RCW 42.56.070(9).
 - Application materials for public employment. RCW 42.56.250(2).
 - Performance evaluations. (A public employee's performance evaluation that does not specify instances of misconduct or public job performance is exempt from disclosure under *Dawson v. Daly*, 120 Wn.2d 782 (1993) and *Brown v. Seattle School District*, 71 Wn. App. 613 (1994).
 - Residential addresses and phone numbers, personal cell phone numbers, personal email addresses, social security numbers, and emergency contact information of employees or volunteers. RCW 42.56.250(1).
 - Criminal history background check information. RCW 43.43.834(5).
 - Personal information in files maintained for students. RCW 42.56.230(1).
 - The federal Family Education Rights and Privacy Act ("FERPA") likewise protects students' education records and prohibits the disclosure of personally identifiable information without parental consent. 20 U.S.C. § 1232g; 34 C.F.R. § 99. "Directory information" as defined by the District is not exempt from disclosure.
 - Personal information in files maintained for employees to the extent that disclosure violates their right to privacy. RCW 42.56.230(2).
 - Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except that a specific record is not exempt when publicly cited by an agency in connection with agency action. RCW 42.56.280.
 - Health care information of patients. RCW 70.02.020 A health care provider, an individual who assists a health care provider in the delivery of health care, or an agent and employee of a health care provider may not disclose health

care information about a patient to any other person without the patient's written authorization.

- Attorney-client privileged communications and attorney work product: (1) communications and advice between attorney and client; and (2) records relevant to a controversy to which the agency is a party and which would be unavailable under the rules of pretrial discovery. Records that fall into the first category are protected by the attorney-client privilege. Records that fall into the second category may be protected by either the attorney-client privilege or the attorney work product doctrine, and in some circumstances both. See RCW 42.56.070(1); RCW 5.60.060(2)(a); RCW 42.56.290.

CATEGORY 3 - REQUEST FROM PARENT FOR RECORDS RELATING TO HIS/HER CHILD

1. The request may come from the parent orally or in writing. The requester does not need to be the custodial parent. The requester should be asked to put the request in writing so that the district can fully respond to the request.
2. The school may respond to the request. The school must keep a copy of the request and the date of response, typically in the student's file.
3. The response to the request is governed by the Federal Family Educational Rights and Privacy Act ("FERPA"). The response must be made within 45 calendar days.
4. The general rule is that a school or district may not disclose education records without a signed and dated parental consent except to the parent of a dependent student.
5. Primary exceptions to the general rule:
 - Other school officials who have a legitimate educational interest in the record
 - Officials of another school where the student seeks to enroll
 - OSPI or district officials
 - State and local authorities where specifically permitted by State statute in order to serve the student whose records are released prior to adjudication
 - Compliance with a subpoena or judicial order, but must make reasonable effort to notify parent first
 - A health or safety emergency (strictly construed)
 - Directory information

6. Directory is defined by the district in Procedure 3600P as: Name, grade level, dates of enrollment, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees and awards received, schools attended in the district, work created by the student for school-related publications and purposes; and/or photographs of students for school-related publications or purposes.