

**Policy Name:** Public Records Requests  
**Section:** 3000 Operational: 3100 Administrative  
**Policy Number:** 0000

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**Purpose:** To establish guidelines in compliance with the WA State Public Records Act that outline how the District will handle public record requests.

**Reference:** Chapter 42.17 RCW/42.56 RCW/42.30 RCW

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**Policy:**

## **PUBLIC RECORDS REQUEST POLICY**

It is the policy of Bainbridge Island Metropolitan Park & Recreation District, (the "District") to release records of the District in compliance with the Public Records Act and any other applicable provisions of federal or state law.

### **I. PURPOSE**

The District is required by the Public Records Act ("PRA"), Chapter 42.56 RCW, to adopt and enforce reasonable rules and regulations to provide full public access to public records. This policy complies with the requirements of the PRA by providing for straight-forward, predictable practices for responding to and fulfilling requests for disclosure of public records in a manner consistent with the PRA.

This policy includes both statutory requirements and best practices. Except where these provisions are mandated by statute, any duties identified in this policy are discretionary and advisory only and shall not impose any affirmative duty on the District. The District reserves the right to apply and interpret this policy and to revise or change the policy at any time.

This policy shall be available at the District's Main Office and posted on the District's website.

### **II. DEFINITIONS**

#### **A. Incorporation of Definitions.**

This policy incorporates the definitions in RCW 42.56.010 and any relevant definitions in RCW 42.17A.005.

#### **B. Additional Definitions**

1. "Act" refers to the Public Records Act, at Chapter 42.56 RCW.
2. "District" refers to the Bainbridge Island Metropolitan Park & Recreation District.
3. "Exemption" refers to any statute that allows or requires the District to withhold information or records in response to a PRA request.
4. "Main Office" is defined in §II.C of this Policy.
5. "Policy" refers to this policy for the Public Records Act.

6. "Public Record" means 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 regardless of physical form or characteristics. Records created or received by employees using privately owned devices only qualify as public record if the employee was acting within the scope of employment when the record was created or received, or when the record is subsequently used for a District purpose. Records in the possession of volunteers who do not serve in an administrative role or supervisory role, who have not been delegated any agency authority and who have not been appointed to serve on a board, commission or as an internship are not "public records."

7. "Public Records Officer" or PRO is the person identified in §III.A.1 of this Policy.

8. "PRA Request" means a request for Public Records made to the District pursuant to the Act.

9. "Requestor" means the person or entity that has made a Records Request to the District.

10. "Redaction" means the withholding of a record in whole or in part, based on a statutory exemption. When the agency asserts an exemption, it will either hold back a portion of the record – redact – or hold back the entire record – withhold – and provide the requestor a statutory citation for the redaction or withholding, along with a brief explanation and if necessary identifying information about the withheld information or record.

### **C. Organization of the District**

The District's Main Office is located at: 7666 NE High School Road, Bainbridge Island, WA 98110

All Record Requests shall be inspected at the Main Office. The Main Office is open 8:30 a.m. to 5 p.m., Monday through Friday, except legal holidays.

The District consists of all District park and facility locations including but not limited to the District's administrative office at Strawberry Hill Park and the Bainbridge Island Aquatic Center. The District consists of three divisions including the Administrative Services Division, Park Services Division, and Recreation Services Division which includes program departments such as sports, outdoor, aquatics, youth and teen, senior, gymnastics, boating, etc.

The District is governed by a Board of Commissioners.

## **III. GUIDELINES**

### **A. Public Records Request**

#### **1. Public Records Officer.**

The District's Public Records Officer is the Administrative Manager or whatever position is currently identified on the District's website.

All requests must be directed to the Public Records Officer. The Public Records Officer may be contacted in person at the Main Office, via first class mail addressed to the Public Records Officer at the Main Office, or via email to the Public Records Officer. The name and contact information (including email address) for the current individual serving as the Public Records Officer shall be posted on the District's website and published in its program brochure.

The Public Records Officer may delegate any of its responsibilities to District staff, with the Executive Director being ultimately responsible for overseeing compliance with the Act and this Policy.

The Public Records Officer shall designate another staff member to carry out the Public Records Officer's duties when the Public Records Officer is not available due to vacation, sick leave or otherwise.

The Public Records Officer shall:

- (a) Be responsible for implementing the District' process regarding disclosure of public records;
- (b) Serve as the principal contact point with any Requestor who has made a Records Request to the District, unless the Public Records Officer has delegated these responsibilities to a specific staff member;
- (c) Coordinate District staff in this regard, generally ensuring the compliance of the staff with public records disclosure requirements;
- (d) Provide input to the Executive Director who will make the final decision regarding disclosure and application of exemptions after considering the Public Records Officer's input and consulting with the District's attorney if needed;
- (e) Maintain the agency's indices, if any;
- (f) Undergo the appropriate training as required for public records officers by WA State law;
- (g) Maintain a log of public record requests that includes for each request the identity of the requestor, date received, text of request, description of records produced, redaction log, and date records are provided to requestor.

## **2. How to Make a PRA Request.**

Public records may be inspected or copies of public records may be obtained by the public at the District's Main Office upon compliance with the following procedures:

- (a) All requests must be directed to the Public Records Officer. The District encourages that all requests be made in writing using the District's Public Records Request form, which is available at the Main Office and on the District's website. Requests may be mailed, scanned and emailed, or delivered in person to the Main Office. In-person requests must be made during the Main Office's normal business hours. The request should include the following information:
  - (i) An indication that the request is being made for access to a public record pursuant to the Public Records Act;
  - (ii) The Requestor's name, address, and convenient means of contact, such as email address, phone number, fax, etc.;
  - (iii) The date of the request;
  - (iv) A description of the public records requested that includes sufficient details to allow the District to identify responsive records;
  - (v) Whether the Requestor wants to inspect records or wants copies. (See §III.E for fees related to providing copies). If the Requestor wants copies, the Requestor should also indicate if they want the District to contact them if copy costs will exceed twenty dollars (\$20.00).
  - (vi) Signature of the Requestor.

(b) The Washington Courts have recognized that oral requests for public records can be problematic and therefore Requestors are strongly encouraged to make written requests using the District's request form. When a Records Request is made orally, the Public Records Officer will confirm his or her understanding of the records requested as a part of the initial written response acknowledging receipt of the request. Unless the Requestor further clarifies the request within five (5) business days, the District will use the written confirmation to define the scope of the request. Any oral request must be made during the Main Office's normal business hours to the Public Records Officer or other live person and cannot be made through voice mail.

(c) It is the Requestor's obligation to provide the District with fair notice that a Public Records Act request has been made. When a Requestor does not use the District's official request form, or when a Requestor submits a request to an employee other than the District's Public Records Officer, or includes a request as part of other documents provided to the District for reasons other than making a PRA request, the Requestor may not be providing fair notice to the District. To ensure fair notice is provided, Requestors are encouraged to use the official forms, make the request through the Public Records Officer and/or take other steps to clearly identify their request. For example, when a request is submitted with other documents not related to disclosure of public records, it shall be the responsibility of the Requestor to provide reasonable notice that a public record request is included. This notice may be in the form of an entry on a cover or transmittal sheet.

(d) If the request is for employment records and the Requestor is seeking his or her own records, the District shall ask the Requestor whether the request is being made pursuant to the Act, or some other right in law or contract to such records. If the Requestor elects to pursue the records pursuant to the Act, the request shall be handled according to this policy. If the Requestor elects to pursue the records pursuant to a separate right in law or contract, then the request shall be handled pursuant to that law or contract.

(e) An individual's attorney, legal guardian, or lay representative may request certain records concerning an individual only upon a written release signed by that individual. The written release must include: (A) the identity of the person(s) or organization(s) authorized to receive the records; (B) an identification of the record(s), or part of the record, that the individual wants released; and (C) the date the release expires. The District may ask for identification verifying the representative's relationship to the individual.

## **B. Procedure for Response to Request**

**1. Initial Five-Day Response.** The District shall respond promptly to PRA requests. Within five (5) business days of receiving a Records Request, the District must acknowledge receipt of the request in writing and take one or more of the following actions:

- (a) Provide notice when any responsive records are currently available on the District's website. If so, the response may include a specific link to the document;
- (b) Seek clarification or refinement of the request if needed to identify the record requested, and provide a reasonable estimate of time to provide the records if clarification is not received - see (e) below.
- (c) Indicate that the District does not have any responsive records;
- (d) Indicate that any responsive records are exempt from disclosure; (see §III.D "Exemptions"); or
- (e) Provide a reasonable estimate of when the request can be fulfilled. For large requests that will be filled in installments, the response will also estimate when the first installment will be made available. When providing a reasonable estimate of time required to fulfill a disclosure request, the Public Records Officer may take into account the time required to refine or clarify a request, locate or retrieve requested records, redact exempt records

and create associated documentation, consult with appropriate staff regarding potential exemptions, and notify third parties or other agencies of requests for information of a sensitive nature consistent with the provisions of Chapter 42.56.540 RCW.

- (f) Deny the request when it is for all or substantially all records of an agency that do not relate to a specific topic.
- (g) Deny the request if it is one of other automatically generated (bot) requests received from the same requestor in a 24 hour period and responding to them would cause excessive interference with the essential functions of the District.

**2. Large Requests.** When receiving a request that appears to be broad in nature, the Public Records Officer may request clarification from the Requestor to ensure that the appropriate records are identified and to determine if the request can be narrowed. Clarification shall focus on information needed to identify responsive records. Any information provided about the purpose of the request shall not be used as a basis for denying the request.

When appropriate, as part of the clarification process, the PRO may work with the Requestor to find ways to narrow the request. When a Requestor agrees to narrow a request, nothing prevents the Requestor from later expanding the request back to its original scope.

When a Records Request is for a large volume of records, the District may elect to provide records on an installment basis. If a Requestor does not contact the Public Records Officer within fifteen (15) days of being notified that the records are available and arrange for the review of the first installment, the District may deem the request abandoned and stop fulfilling the remainder of the request.

While Requestors usually cannot be required to explain why they are seeking records, the PRA does not prohibit agencies from asking why. Moreover, when the agency knows why the Requestor is seeking records, the agency is more likely to be able to locate those records without also producing a large volume of records the Requestor does not really want. Thus, it is often in the Requestor's interest to share additional information with the agency. But except as provided in the following section, the agency cannot use the Requestor's reasons for seeking records as a basis for denying the request.

**3. Unclear Requests.** If the Requestor fails to respond to the District's request for clarification, and the entire request is unclear, the District need not respond to the public record request. If possible, however, the District will respond to those portions of the request that are clear.

**4. Requests for List of Names.** The PRA prohibits the District from producing lists of names to a Requestor who intends to use the list for commercial purposes. When a Requestor requests a list of names, the Requestor should explain the intended use of the list and may be asked to sign a declaration or affidavit providing that the list will not be used for commercial purposes. The District may request additional information if needed to allow the District to determine if the intended use qualifies as a commercial use. This exception is very narrow and only applies to actual lists of persons names. It does not apply to lists of businesses, as opposed to persons.

**5. Notice to Third Parties.** If a public record contains personal information that identifies an individual or organization other than the subject of the requested public record, the District may notify that individual or organization to allow the third party to seek relief pursuant to RCW 42.56.540 by obtaining a court order that prevents release of these records. The District may take this into account when providing an estimate for when the records will be available. The District should also review any contracts with third parties that may contain special notice provisions. Nothing in this policy is intended to create any right to such notice. The third party notice should include:

- (a) A description of the record being requested;
- (b) The date the District intends to release the record; and
- (c) How the individual or organization can prevent release of the record.

The District may also send a written notice (can be included in initial five day response) to the Requestor notifying them that:

- a) The individual or organization whose personal information is contained in the requested public record has been notified;
- b) The District expects a response from the individual or organization regarding disclosure of their personal information by a specified date; and
- c) Disclosure may be denied.

The District shall release the record by the specified date if no one objects or the contacted party does not respond by the specified date.

**6. Creating Records.** A PRA request only applies to records that exist at the time of the request. The PRA does not apply to requests for information or require the District to create a new record. Requestors cannot make “standing” PRA requests.

**7. Failure to Respond.** If the District does not respond in writing within five (5) business days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:

- a) Consider the request denied; and
- b) Petition the Public Records Officer.

### **C. District Actions after a Request Is Received**

**1. Order of Response.** Fulfillment of requests shall be processed in the order that provides the timeliest response. Requests may be fulfilled in the order of receipt as long as easily fulfilled requests are not postponed behind larger or more complicated requests strictly because they were received later.

**2. Locating Responsive Records:** After receiving a request, the Public Records Officer shall determine what departments might have responsive records and whether it will be necessary to conduct electronic searches for records. The Public Records Officer will then coordinate with the Leadership Team and other District staff as needed. District staff will be prompt in researching where there may be responsive records and providing them to the Public Records Officer in accordance with the timeframe requested by the PRO to locate responsive records.

**3. Identifying Potentially Exempt Records.** The Public Records Officer is responsible for identifying records that are potentially exempt or contain potentially exempt information. The Public Records Officer will then work with the Executive Director and District attorney to determine if any exemption applies.

### **D. Exemptions**

**1. Exemptions.** The Public Records Act and other statutes exempt from or prohibit disclosure of certain public records. It is the policy of the District to provide prompt and helpful access to all public records in the District’s custody that state statutes do not exempt or prohibit from disclosure. Requested records may only be withheld or redacted consistent with statutory requirements, which shall be documented for the Requestor in accordance with the requirements of RCW 42.56.210.

Some public records that are otherwise subject to disclosure may contain specific content that is exempt from disclosure. The presence of exempt information does not necessarily exempt an entire record from disclosure. Exempt portions of an otherwise disclosable record shall be redacted prior to inspection or copying and such redactions shall be documented. The Requestor shall be notified of the redaction in accordance with the requirements of RCW 42.56.210.

The following are summaries of common exemptions relied upon by the District. Note, the District reserves the right to assert any exemptions permitted by law when the District determines non-disclosure serves the public interest and is not limited to the exemptions listed below:

- (a) Records that are protected by trade secrets law;
- (b) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;
- (c) Personal information in files maintained for board members, District employees and volunteers, or that might be found on mailing lists or rosters to the extent that disclosure would violate their right to privacy, including but not limited to addresses, phone numbers, Social Security numbers, voluntary deductions, marriage status, number of dependents, and any garnishment deductions;
- (d) Personal information (including contact information) of a child enrolled in a park or recreation program, including identifying information of a guardian or family member of the child when guardian or family member shares the same last name or resides at the same address, and when disclosure of the information about family member or guardian would disclose personal information about the child;
- (e) Preliminary drafts, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, until a final decision on the issue is made or the document is publicly cited by an agency in connection with any agency action.
- (f) All applications for public employment, whether or not the applicant is hired, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;
- (g) Medical records;
- (h) Records created in anticipation of litigation;
- (i) Records reflecting communications between attorneys and District employees where legal advice is sought or received. The Public Records Officer shall consult with the District's counsel before releasing any records relating to the District's attorneys to determine if the record is in fact privileged or otherwise exempt from disclosure.
- (j) Any record which is exempt from disclosure under state or federal law.

**2. Redaction (Partial):** If the Executive Director determines that any portion of a public record is exempt, then, if those exempt portions of Public Records can be redacted, the remainder thereof shall be open to public inspection and copying and shall be provided to a Requestor. For example, by way of illustration only, a copy of the record may be provided for inspection in which the redacted information has been blacked out with a black marker or otherwise covered during the copying process.

**3. Redactions Logs.** When records are redacted in whole or in part, the Requestor shall be informed in writing the statutory citation for the exemption and a brief explanation of how the exemption applies. For withheld records, the District will also provide basic identifying information for each withheld record including the type of record, the date the record was created, the number of pages, the author, and recipients, if any.

**4. Legal counsel.** For any questions the District may have regarding whether or not an exemption should be redacted, legal counsel assistance may be sought.

## **E. Copying Public Records**

No fee shall be charged for the inspection of Public Records. For the reasons stated in Resolution 2017-13, incorporated herein by reference, the District finds that it would be unduly burdensome and would interfere with District operations to calculate the actual cost of copies on a request-by-request basis. The Requestor will be charged the following fees as applicable when requesting copies of records.

**1. Copies.** The District will charge one or more of the following charges for copies that are produced in-house by the District:

(a) Fifteen cents per page for standard black-and-white copies;

(b) Ten cents per page for any paper documents that are scanned so they can be produced in electronic format.

(c) Five cents per each four electronic files or attachments produced in electronic format that are not scanned from paper documents;

(d) Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically;

(e) The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope used to mail the copies to the Requestor, and the actual postage or delivery charge;

**2. Third Party Vendors:** The District may elect to use a third-party vendor to copy records. When the District uses a third-party vendor, it will charge the Requestor the full cost charged by the third party vendor, including taxes; PROVIDED that that the District will first provide the Requestor with a cost estimate pursuant to §III.E.4.

**3. Custom Charges:** When a request requires the District to use information technology expertise to prepare data compilations, or provide customized electronic access services, and when such compilations and customized access services are not used by the agency for other agency purposes, the District will charge the full cost of that customized access, PROVIDED that that the District will first provide the Requestor with a cost estimate pursuant to §III.E.4 that includes explanation of why the customized service charge applies and a description of the specific expertise needed;

**4. Estimate of Costs:** When requested by a Requestor before copies have been made, or when required by this policy or law, the District will prepare a summary of estimated applicable copy charges to allow the Requestor to revise the request to reduce the estimated costs.

The Public Records Officer may elect to waive these fees. Fees will be waived when the expense of billing exceeds the cost of copying and postage.

**5. Deposits.** Before copying any record, the District may charge a deposit up to 10% of the estimated costs. When records are being produced on an installment basis, the District may charge for each installment. The decision not to request a deposit shall not serve to waive the District's right to request a deposit for a future request. If an installment is not claimed and paid for within fifteen (15) days of having been notified the records are available, or if the Requestor has not contacted the District within this fifteen (15) day period to arrange a date to claim and pay for the installment outside this fifteen (15) day period, the District is not obligated to fulfill the balance of the Records Request.

**6. Copies of electronic records.** The District will produce paper records in paper format unless the Requestor asks that they be scanned into an electronic format at which time fees will apply as indicated in Section III.E.1(b). Records already in electronic format will be provided typically on a CD and will generally be produced in its native format such as Word or Excel or a common format like PDF as long as it is reasonable and technologically feasible for the District to do so. Fees may apply as indicated above in Section III.E.1-3.

Electronic records that require redaction usually cannot be produced in a native format and will be converted to paper or PDF.

## **F. Inspection of Records**

**1. Notice.** Once the Public Records Officer has collected all responsive records (or the first installment if the records are being produced on an installment basis), has reviewed the responsive records to remove exempt records, and has prepared an exemption log, the Public Records Officer shall notify the Requestor that the records are available.

**2. Response by Requestor.** If the Requestor does not contact the Public Records Officer to arrange for payment of the copies or for review of the records within fifteen (15) days after the notice of availability letter was sent, the District may consider the Records Request abandoned, unless the Requestor seeks within this fifteen (15) day period an additional amount of time to review the records.

**3. Protection of Records.** In order that Public Records maintained on the premises of the District may be protected from damage or disorganization as required by the Act, the following procedures and practices are hereby instituted:

**(a)** No Public Records shall be removed from District's Main Office without the Public Records Officer's permission;

**(b)** Inspection of any Public Records shall be conducted in the presence of the Public Records Officer or designated staff;

**(c)** No public record may be marked, defaced, torn, damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public;

**(d)** Public records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by District staff; and

**(e)** Public records of the District may be copied only on the copying machines of the District unless other arrangements are made by the Public Records Officer.

**4. Loss of Right to Inspect.** Inspection shall be denied and the records withdrawn by the Public Records Officer if the Requestor, when reviewing records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the District.

**5. Closing the File.** Once all copies of requested records have been provided to the Requestor, the Requestor has reviewed the requested records, or 30 days have passed since the Requestor was notified that the records were available and the Requestor has failed to contact the Public Records Officer to arrange for the review of those records or for payment for copies, the Public Records Officer shall treat the request as closed.

**G. Administrative Review of Denial.** A Requestor may ask for review of a decision to redact exempt records by submitting a written petition to the Public Records Officer that includes a copy of the redaction or exemption log or detailed description of the District's statement of redaction. The request for review and any relevant information shall be forwarded immediately to the Executive Director who will then refer it to the Board of Commissioner's Governance Committee. The Governance Committee shall consider the petition and either reverse or affirm the denial within two days of the District's receipt of the petition. To allow for a more thorough review, the District and the Requestor may mutually agree to a longer period of time for consideration of a petition for review. If the redaction is affirmed, the decision shall be considered the District's final action for the purposes of judicial review. If the decision to redact is reversed, the Public Records Officer shall proceed to make the subject records available to the Requestor for inspection in accordance with the provisions of this policy and procedure.

**H. Preservation of Records.** The District's records are the property of the District and as public records are subject to disclosure unless the law provides an exemption. They will be managed and disposed of by the District in accordance with WA State regulations. Nothing in this policy prevents the District from disposing of records that have met the required WA State retention period. If a Record Request is made at a time when such a record exists but is scheduled for disposal in the near future, the Public Records Officer shall retain possession of the record, and may not dispose of it until the request has been filled. Outgoing officials and employees shall deliver all Public Records in their possession to their supervisors before leaving office or employment with the District.

**I. Index of Public Records**

For the reasons stated in Resolution 2017-13, incorporated herein by reference, the District finds that it would be unduly burdensome and would interfere with District operations to maintain an index of records. The District will make available for public disclosure all indices which may at a future time be developed for District use.

**J. Disclaimer of Liability**

Neither the District nor any officer, employee, official or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon a release of Public Records if the person releasing the records acted in good faith in attempting to comply with this policy.

This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as "shall," nothing in this policy is intended to impose mandatory duties on the District beyond those imposed by state and federal law.