

II. J.

**OGDEN CITY SCHOOL DISTRICT
RECORDS ACCESS AND MANAGEMENT
POLICY**

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II. J. DISTRICT RECORDS ACCESS AND MANAGEMENT POLICY

SECTION 1: INTRODUCTION

1.1 Purpose. This information policy is intended to establish a uniform policy for the classification, designation, access, denial of access, segregation, appeals, management, and retention and amendment of District records in accordance with Utah Code Ann. § 63-2-701 of the Utah Government Records Access and Management Act ("GRAMA"), Utah Code Ann. § 63-2-101, et seq. In adopting this policy, the Board intends to protect the right of privacy of individuals and provide for reasonable access to public records without undue interference with the function of the District to provide education to the school-age population within District boundaries.

1.2 Application. This policy shall apply to all District records.

1.3 Effective Date. This policy shall be effective as of July 1, 1992, and as amended.

1.4 Filing with State Archives. The District shall file this policy and any amendments hereto with the State Division of Archives and Records Service no later than thirty (30) days after the effective date.

1.5 Definitions. Terms used in this policy have the meaning assigned in "GRAMA", including:

1.51 "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, electronic data, or other documentary materials regardless of physical form or characteristics:

(a) which are prepared, owned, received, or released by the District; and

(b) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means,

1.52 "Record" does not mean copyrighted or trademark materials, materials owned by individuals, notes or internal memoranda used in deliberations in administrative proceedings, or other materials described in Utah Code Ann, § 63-2-103(18)(b),

1.53 "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

1.6 Savings Clause/Statutory Amendments. A determination that if any provision of this policy is invalid such provision shall not affect the validity of the remaining provisions. Amendments to "GRAMA" or other applicable statutes enacted after the effective date of this policy shall control over any inconsistent provision of this policy. The District shall endeavor to periodically review this policy as needed and to amend it to reflect changes in "GRAMA" or other applicable law.

SECTION 2, RECORDS MANAGEMENT ORGANIZATION

2.1 District Records Administrator. The office of the Superintendent shall be responsible for managing the records of the District, The Superintendent shall appoint a particular administrator or employee as the District Records Administrator, . The District Records Administrator shall:

- (a) Supervise the implementation of and compliance with this policy throughout the District;
- (b) Evaluate the record series the District uses or creates;
- (c) Designate and classify record series and records pursuant to this policy and "GRAMA" ;
- (d) Coordinate the District records policy with school and department administrators, and, in the discretion of the District Records Administrator, establish procedures whereby school or department administrators may classify certain records or record series;
- (e) Make recommendations to the Board regarding changes in District records policies;
- (f) Establish a retention schedule for District records or record series;
- (g) Coordinate transfer of records to the State Archives as necessary;
- (h) Report the designations or classifications of record series to the State Archives.
- (i) Maintain proper documentation of transactions, organization, and policies relating to District records management.

2.2 Categorizing Records

- (a) "Classification" and "classify" mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure pursuant to court order, statute, or other applicable law as outlined in Section 3 below.
- (b) "Designation" and "designate" mean to preliminarily categorize a record series with a likely primary classification of the majority of records in the record series and the likely classification of other records typically present prior to actually classifying the records in the record series.
- (c) The District Records Administrator may classify a particular record, record series, or information within a record at any time, but is not required to classify a particular record, record series, or information until access to the record is requested.

- (d) If more than one provision of this policy could govern the classification of a record, the District Records Administrator shall classify the record by considering the nature of the interests of the competing provisions.
- (e) As soon as practicable after adoption of this policy, the District records Administrator shall preliminarily designate commonly used record series created after adoption of this policy at or shortly after their creation.
- (f) The District Records Administrator shall report to the State Archives the designations and classifications of all record series maintained by the District shortly after making such designations or classifications.

2.3 Redesignation and Reclassification. The District Records Administrator may redesignate a record series or reclassify a record or record series, or information within a record, at any time.

2.4 School and Department Administration of Policy. The administrative staff of each school and of each District department shall manage the documents within the respective schools and departments in accordance with this policy. The schools and departments shall:

- (a) Maintain a written record of requests for access to records or record series received by the school or department;
- (b) Coordinate with the District Records Administrator regarding records requests, designation, classification, and records retention;
- (c) Review and designate or classify records or record series within the school if so directed by the District Records Administrator.

SECTION 3. RECORD CLASSIFICATIONS AND ACCESS

3.1 Public Records. Public records are defined in Utah Code Ann. § 63-2-301. Public records include records of the following information:

- (a) names, gender, gross compensation, job titles, job descriptions, business address, business telephone numbers, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of former and present District employees;
- (b) final opinions and orders made by the District in administrative or adjudicative proceedings except that if the proceedings were properly closed to the public, the opinion or order may be withheld to the extent that they contain information that is private, controlled, or protected;
- (c) final interpretations of statutes or rules by the District or another governmental entity unless classified as protected;
- (d) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of the District as provided by Chapter 4, Title

52, Open and Public meetings, including the records of all votes of each member of the Board or committee;

- (e) data on individuals that would otherwise be private under this policy if the individual who is the subject of the record has given the District written permission to make the records available to the public;
- (f) documentation of the compensation that the District pays to a contractor or private provider; and
- (g) summary data.

3.11 The following information is usually public unless exempt from disclosure under a specific provision of this policy:

- (a) administrative staff manuals, instructions to staff, and statements of policy;
- (b) records documenting a contractor's or private provider's compliance with the terms of a contract;
- (c) records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the District;
- (d) contracts entered into by the District;
- (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by the District;
- (f) correspondence regarding the rights of the state, a political subdivision, the public, or any person;
- (g) empirical data in draft form not readily available elsewhere, provided the District may correct errors before release;
- (h) drafts circulated to anyone outside the District other than another political subdivision, government entity, a government corporation, or government contractor;
- (i) unfinished drafts upon which the District relied in carrying out action or policy;
- (j) original data in District computer programs if the District chooses not to disclose the program;
- (k) records that would disclose information relating to formal charges or disciplinary action against a past or present District employee if:
 - (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and
 - (ii) the formal charges were sustained;

(l) final audit reports;

(m) occupation and professional license information.

3.2 Access To Public Records. Upon request, the District shall allow any person access to records classified as "public records" pursuant to Utah Code Ann. § 63-2-301. Access shall include the right to inspect the public record free of charge during normal business hours, and to obtain photocopies and certified copies subject to the terms of Subsection 4.3 below,

3.3 Private Records. Private records are defined in Utah Code Ann. § 63-2-302(1) and include, but are not limited to:

3.31 Records concerning any individual's eligibility for social services, welfare benefits, other public assistance, unemployment benefits, insurance, or the like;

3.32 Information in the District's personnel files that would disclose a current or former employee or applicant's home address, home telephone number social security number, insurance coverage marital status, or payroll deductions;

3.33 Employee evaluation records and otherwise non-public records concerning the race, religion or disability of a current or former employee or applicant;

3.34 Records containing individual medical or psychological history, diagnosis, treatment, evaluation, etc.;

3.35 Records concerning any individual's finances except as required by Utah Code Ann. § 63-2-301 or 63-3-302(2);

3.36 Records containing data on individuals the disclosure of which would constitute a clearly unwarranted invasion of privacy.

3.4 Access To Private Records. Upon request, the District shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the records;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record; or

- (ii) submits a notarized release from the subject of the record or his legal representative dated no more than 90 days before the date the request is made; or
- (e) any person to whom the record must be provided pursuant to court order as provided in Subsection 3.102 of this policy, or a legislative subpoena as provided in Utah Code Ann. § 36-14-1, et seq.
- (f) If there is more than one subject of a private record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

3.5 Controlled Records. Controlled records are defined in Utah Code Ann. § 63-2-303 and include, but are not limited to:

3.51 records containing medical, psychiatric, or psychological data about an individual as to which the District reasonably believes that;

- (a) releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or
- (b) releasing the information would constitute a violation of normal professional practice and medical ethics.

3.6 Access to Controlled Records

- (a) Upon request, the District shall disclose a controlled record to:
 - (i) a physician, psychologist, or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than 90 days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (b); and
 - (ii) any person to whom the record must be disclosed pursuant to court order as provided in Subsection 3.102 or a legislative subpoena as provided in Chapter 14, Title 36.
- (b) A person who receives a record from the District in accordance with Subsection 3.6(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.
- (c) If there is more than one subject of a controlled record, the District shall segregate the portion of the record that pertains to another subject from the portion that the requester is entitled to inspect.

3.7 Protected Records. Protected records are defined in Utah Code Ann. § 63-2-304 and include, but are not limited to:

- 3.71 Test questions or answers to be used in future academic or employment examinations;
- 3.72 Unpublished lecture notes, unpublished research notes and data, unpublished manuscripts, creative works in process, scholarly correspondence, and confidential information contained in research proposals developed, discovered, or received by or on behalf of faculty, staff, employees or students of the District;
- 3.73 Records concerning the identity or value of real or personal property the District is considering acquiring or selling, except as permitted under Utah Code Ann. §§ 63-2-304(6) & (7).
- 3.74 Trade secrets or commercial information as defined in Utah Code Ann. §§ 63-2-304(1) & (2).
- 3.75 Records prepared by or on behalf of the District solely in anticipation of litigation that are not available under the rules of discovery, and records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the District concerning litigation;
- 3.76 Records of communications between the District or an attorney representing, retained, or employed by the District if the communications would be privileged as provided in Utah Code Ann. § 78-24-8.
- 3.77 Records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records reasonably could be expected to interfere with proceedings in a manner indicated in Utah Code Ann. § 63-2-304(8).
- 3.78 Records, the disclosure of which would jeopardize the life or safety of an individual;
- 3.79 Records, the disclosure of which would jeopardize the security of District property, District programs, or District record-keeping systems from damage, theft, or other appropriation or use contrary to law or public policy.

3.8 Access to Protected Records. Upon request, the District shall disclose a protected record to:

- (a) the person who submitted the record;
- (b) any other individual who:
 - (i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

- (ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made; or
- (c) any person to whom the record must be provided pursuant to a court order as provided in Subsection 3.102 or a legislative subpoena as provided in Chapter 14, Title 36.

3.9 Information Governed By The Buckley Amendment. Notwithstanding any other provision of this policy, the District shall not release or allow access to personally identifiable information in education records directly related to a student except as permitted under the Family Education Rights and Privacy Act ("Buckley Amendment" or "FERPA") (20 U.S.C. § 1232g),

3.100 Disclosure of Records to Other Governmental Entities, Compliance With Court Orders, Etc.

- 3.101 The District may disclose private, controlled, or protected records to governmental entities as allowed by Utah Code Ann. § 63-2-206 and other applicable law. Unless disclosure is authorized by executive agreement, treaty, statute, compact or regulation, when disclosing records to another state, the United States, or a foreign government, the District shall:
- (a) inform the recipient of the record's classification and accompanying restrictions; and
 - (b) if "GRAMA" does not apply to the recipient, obtain a written agreement that the recipient will abide by the restrictions unless other applicable law governs.

3.102

- (a) Subpoenas and Other Methods of Discovery. The District shall comply with subpoenas and other methods of discovery used in litigation.
- (b) Other Court Orders. The District shall also disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that the requirements of Utah Code Ann. § 63-2-202(7) have been satisfied.,

3.103 The District may disclose records relating to unlawful activity to appropriate law enforcement personnel to the extent not prohibited by the Buckley Amendment or other applicable law.

3.104 The District may disclose data for research pursuant to Utah Code Ann. § 63-2-202(8).

3.105 The District may disclose information for any other purpose permitted by Utah Code Ann. § 63-2-202 or required by any other applicable law.

3.200 Records from Other Governmental Sources. When the District obtains records originated by another political subdivision or a governmental entity, the District shall comply with the applicable restrictions on access to those records.

SECTION 4: RECORD ACCESS REQUEST PROCEDURES

4.1 Requests for Records

4.11 Except for requests for student information governed by Subsection 4.12, requests for records under this policy shall be in writing, and shall include:

- (a) the requester's name, daytime telephone number and mailing address;
- (b) a specific description of the records requested; and
- (c) a statement of the requester's status as a person entitled access to the requested records. A suggested form for records requests is attached as Exhibit A.

4.12 Request Exceptions

- (a) Requests for access to records maintained by individual schools shall be submitted to the office of the particular school during normal business hours.
- (b) All other requests for records, including requests for general District records or records of non-school departments or facilities, shall be submitted to the District offices during normal business hours.

4.14 Identity of Requester. Before releasing a private, controlled, or protected record, the District shall obtain evidence of the requester's identity.

4.2 Responses to Records Requests

4.21 The Board finds that the District has insufficient resources to meet the time frame for responding to requests set forth in Utah Code Ann. § 63-2-204. Specifically, the Board finds that the enumerated extraordinary circumstances of Section 63-2-204(4) do not adequately take into account the resources and demands placed upon District personnel. The numerous decentralized facilities of the District, limited support personnel, existing workload of District personnel, cyclical nature of certain clerical and administrative responsibilities within the District, and the complexity of the regulatory scheme mandated by "GRAMA" all affect the ability of the District to respond to a request.

4.22 The District shall respond to records requests as soon as reasonably possible.

4.23 The District shall give priority to requests for access to individual records by students, former students, or their parents or guardians and to requests for medical and psychological data necessary for treatment.

4.24 The District shall respond to requests for records within fifteen (15) days of receipt of requests,

(a) Approving the request and providing the record;

(b) Denying the request; and

(c) Notifying the requester that the record is not available at that location and advising the requester where the record is kept, if known.

4.25 In the event the District Records Administrator determines there are extraordinary circumstances, the District may extend the time for responding to a request up to an additional twenty (20) days. The District shall advise the requester in writing of a determination of extraordinary circumstances and the length of the resulting extension.

4.26 The District shall mail a denial of a request for records to the requester. The notice of denial shall:

(a) Describe the record or portions thereof to which access was denied. The description shall not disclose private, controlled or protected information;

(b) State the reason for denial and include a citation to the provision of GRAMA or other statute or regulation;

(c) State that the requester may appeal the denial; and

(d) State the time limits for filing an appeal and the name and address of the Superintendent

(A suggested form for denial of access is attached as Exhibit B.)

4.3 Fees

4.31 Photocopies. The District shall charge \$.25 per page for photocopies of records. All copies of private, controlled, or protected records shall be marked "confidential." The District may decline to photocopy requests for more than fifty (50) pages of records. If the requested records are not interspersed with materials exempt from disclosure, the District may provide the requester with facilities to make copies or may allow the requester to use his or her own copying facilities and personnel at the District Offices.

4.32 Creating Records. The District is under no obligation to create a record in response to a request, but may do so if it would not unreasonably interfere

with the responsibilities of the District staff. The District may charge \$28.00 per hour for creating records or reports in response to a request.

4.33 Research Fees. The District may charge \$15.00 per hour for records research taking longer than one-half hour. The District shall not charge a fee for inspecting a record or for reviewing a record to determine if it is subject to disclosure. 1-3

4.34 Other Fees. The District may charge a reasonable fee for making copies of audio, video, computer data, or other records.

4.35 Waiver of Fees. Upon receipt of a sworn statement from a requester of records indicating that the requester is impecunious, or for other good cause, the District may, in its discretion, waive any fees under this part.

SECTION 5: ACCURACY OF RECORDS

5.1 Rights Of Individuals On Whom The District Maintains Data

5.11 The District shall file with the state archivist a statement explaining the purposes for which the District collects and uses record series designated private or controlled.

5.12 Upon request, the District shall explain to an individual:

- (a) the reasons the individual is asked to furnish to the District information that could be classified private or controlled;
- (b) the intended uses of the information; and
- (c) the consequences of refusing to provide the information.

5.13 The District shall not use private or controlled records for purposes other than those listed in the statement filed with the state archivist under Subsection 5.11 or for purposes other than those for which another governmental entity could use the record under Utah Code Ann. § 63-2-206.

5.2 Disclosure of Context Of Use. When providing private or public records about an individual to the subject of the record, the subject's parents or legal guardians, a person with a valid notarized release, or a person pursuant to court order, the District shall upon request, disclose the context in which the record is used.

5.3 Requests To Amend Records

5.31

- (a) Subject to Subsection 5.5, an individual may contest the accuracy or completeness of any public, or private, or protected record concerning him or her by requesting that the District amend the record. However,

this section does not affect the right of access to private or protected records.

(b) The request shall contain the following information:

- (i) the requester's name, mailing address, and daytime telephone number; and
- (ii) a brief statement explaining why the District should amend the record.

5.32 The District shall serve on the person requesting amendment a written statement either approving or denying a request to amend a record no later than 45 days after receipt of the request.

5.33 If the District approves the request, it shall correct all of its records that contain the same incorrect information as soon as practical,

5.4 Denial of Requests to Amend

5,41 If the District denies a request to amend, the District shall:

- (a) inform the requester in writing; and
- (b) provide a brief statement giving its reasons for denying the request,

5,42

(a) If the District denies a request to amend a record, the requester may submit a written statement concerning the information in the record,

(b) The District shall:

- (i) file the requester's statement with the disputed record if the record is in a form such that the statement can accompany the record or make the statement accessible if the record is not in a form such that the statement can accompany the record; and
- (ii) disclose the requester's statement along with the information in the record whenever the governmental entity discloses the disputed information.

5.43 The requester may appeal the denial of the request to amend a record in the manner provided for appeals from determinations denying access to records.

5.5 Records Not Subject to Amendment. Academic records, medical records, or any other records that the Board or District Records Administrator determines must be maintained in their original form to protect the public interest and to preserve

the integrity of the record system are not subject to amendment pursuant to this section.

SECTION 6: APPEALS

6.1 Initiating An Administrative Appeal.

- (a) A person denied access to a record under this policy may appeal the decision by filing a notice of appeal directed to the Board at the District offices within thirty (30) days of the date of the notice of denial. The notice of appeal shall include the petitioner's name, address, daytime telephone number, and a statement of the relief sought. A copy of the notice denying access shall be attached to the notice of appeal.
- (b) If a person other than a requester of records claims to be aggrieved by the District's classification or designation of records, such person may appeal the determination to the Board or panel in the same manner provided for an appeal by a requester of records.

6.2 Procedures Governing Appeals

- 6.21 The Board hereby finds, pursuant to Utah Code Ann. § 63-2-701(3)(b), that by reason of the part-time nature of the Board, it is not feasible for the District to adopt a policy requiring the Board or a panel including members of the Board to make decisions on appeals within the times provided in Part 4 of "GRAMA".
- 6.22 The Board may, in its discretion, appoint a panel consisting of two Board members and one other person to decide appeals from record request determinations. Otherwise, the Board shall decide appeals.
- 6.23 The notice of appeal may contain a short statement of facts, reasons, and legal authority. Within fifteen (15) days of the filing of the notice of appeal, the Superintendent or District Records Administrator may file and serve a short response to the notice of appeal.
- 6.24 If the appeal involves a record that is the subject of a claim of business confidentiality under Utah Code Ann. § 63-2-308, the Board or panel shall serve notice of the appeal on the business confidentiality claimant within five (5) business days of receiving the notice of appeal, and shall mail a copy to the appealing requester. A suggested form is attached as Exhibit C. The person claiming business confidentiality may file with the Board or panel a statement supporting the need for confidentiality of the information or record at issue within seven (7) days of the date of such notification.
- 6.25 The Board or panel shall render its decision on appeals without hearing unless the Board or panel, in its discretion, believes that a hearing would assist it in making a determination.

6.26 The Board or panel shall issue a determination on an appeal in writing within thirty (30) days of the timely filing of a notice of appeal. The Board or panel shall promptly serve the determination on all interested parties. The determination shall advise the parties of the right to appeal and the time limits for an appeal. A suggested form is attached as Exhibit D. If the Board or panel has issued no determination within the thirty (30) day period, the appeal is deemed denied,

6.3 Judicial Review. A requester may file with the district court a petition for judicial review of a determination of the Board or panel denying in whole or in part a request for access within thirty (30) days of the Board or panel's determination,

SECTION 7: RETENTION OF RECORDS

7.1 Retention Schedules. The general schedules for retention of records for public school districts promulgated by the State Archives Office shall apply to district records except as otherwise provided herein or as required by other applicable law. The District Records Administrator may, consistent with Utah Code Ann. §§ 63-2-903 & 905(2), establish a schedule for the retention of particular records or record series that differs from the general schedule promulgated by the State Archives. The District Records Administrator shall immediately forward a copy of any such retention schedule to the State Archives.

7.2 Transfer of Records to State Archives. The District may transfer to the State archives for safekeeping any records which must be retained under the applicable retention schedule, but of which the District no longer wishes to maintain custody,

7.3 Preservation of Materials with Historical Value. Where feasible, the District shall preserve materials with historical value, whether or not the materials qualify as records. The District Records Administrator shall consult with the State Archives as necessary concerning preservation of such materials.

**EXHIBIT A
REQUEST FOR RECORDS ACCESS**

Date of Request:

Name:

Address:

Daytime Telephone No.

Description of Records Requested:

Statement of requester's status as person entitled to access of records requested (e.g., parent of subject of record, holder of power of attorney where applicable, physician possessing signed release, etc.):

For District Use Only

Date Request Received by District:

Date Response Mailed:

Approved

Denied

Reason for Denial:

20-day Extension for Extraordinary Circumstances:

EXHIBIT B

Date:

Dear :

Your (date of request) request for access to (describe records) has been (denied) (denied in part) for the following reason(s):

(If denied in part, also describe part of request granted and part denied.)

Under the district records policy, you may appeal the . denial of your request by filing a notice of appeal directed to the Board of Education at the district offices within thirty (30) days of the date of this notice. You should attach a copy of this letter denying access to your notice of appeal. The notice of appeal may also contain a short statement of facts, reasons and legal authority. Your appeal will be decided within thirty (30) days by the Board of Education or a panel appointed by the Board for that purpose.

(Signature)

EXHIBIT C

Date

Dear :

Our records indicate that you have filed a statement claiming business confidentiality as to (describe records). Enclosed is a copy of a recently filed notice of appeal from a decision denying a request for access to those records. If you wish the district to consider any additional information in support of your claim of business confidentiality, you may submit such materials to the Board of Education at the above address within seven (7) days of the date of this letter.

(Signature)

CERTIFICATE OF SERVICE

I hereby certify that on the day of , 199,, I mailed a copy of the foregoing letter to the following interested parties:

[names and addresses of other interested parties]

(Signature)

EXHIBIT D

Date

Dear :

The (Board of Education or panel) has (reversed or affirmed) the denial of access to district records which you appealed. (If affirmed, include following information; You may appeal the decision affirming a denial of access to the district court of the State of Utah by filing a complaint within thirty (30) days of the date of this notice.)

(Signatures of Board or Panel)

CERTIFICATE OF SERVICE

I hereby certify that on the day of , 199,, I mailed a copy of the foregoing letter to the following interested parties:

[names and addresses of other interested parties]

Signature

Approved by the Board of Education on January 11, 1995