

## PUBLIC INFORMATION PROGRAM: PUBLIC RECORDS

### PURPOSE OF THE POLICY

This policy is adopted pursuant to the Government Records Access and Management Act Utah Code Ann. (1992) § 63-2-701 ("GRAMA) and applies to District records relating to information practices, including classification, access, appeals, management and retention of documents.

### APPROPRIATE REQUESTOR OF RECORDS

A person may request access to the District's records if that person meets the requirements set forth in this policy.

### PUBLIC RECORDS

A "public record" means any record that is not private, controlled or protected. For purposes of this policy, "records" do not include: temporary drafts or other materials prepared for the originator's personal use or for the personal use of another, personal notes, notes kept in personal journals, diaries or other day timers, notes of informal observations, personal notes of evaluations or materials owned by the originator in his or her private capacity.

*Utah Code Ann. §63-2-103(17) and (18)(b)*

### RECORDS ADMINISTRATOR

Kirk L. Wright is hereby designated as Records Administrator of the District.

### A. PRIVATE DOCUMENTS

The District hereby designates the following documents as "private data:"

#### (1) Definition of "Private Documents

- a. All private personnel records contained in a personnel file, applications, nominations, recommendations, or recommendations for employment, advancement or appointment;
- b. Any final employee evaluation signed by the employee;
- c. Records showing an individual's home address, home telephone number, social

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### DEFINITION OF PRIVATE DOCUMENTS (continued)

security number, insurance coverage, marital status, payroll deductions, race, religion or disabilities or military status;

- d. Records touching upon an individual's eligibility for unemployment benefits, social services, or welfare benefits;
- e. Records touching upon an individual's personal finances; or
- f. Records touching upon any individual's medical or psychological condition, past or present.
- g. Records showing an individual's certification;
- h. Any record the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Utah Code Ann. §63-2-302*

### (2) ACCESS TO PRIVATE RECORDS

Upon an appropriate written request from the subject of the records, or the parent or legal guardian of an unemancipated minor who is the subject of the record, the District shall disclose private records and other private data only to the subject of the record, or the parent or legal guardian of an unemancipated minor who is the subject of the private record, or the legal guardian of a legally incapacitated individual who is the subject of the private record, or any individual who has a power of attorney from the subject of the record, or who submits a notarized release from the subject of the record, or his legal representative which is dated not more than thirty (30) days before the date the request is made, or pursuant to order of a

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ACCESS TO  
PRIVATE RECORDS  
(continued)

court of competent jurisdiction to disclose such record.

*Utah Code Ann. §63-2-202(11)*

B. DOCUMENTS SHOWING  
CRIMINAL CHARGES

Official records showing formal criminal charges against an employee and action are not private unless in the discretion of the District records officer or the Superintendent the charges are groundless or the charges are not sustained.

CONTROLLED RECORDS  
(1) Definition of  
"Controlled Records"

The District hereby designates as "controlled" any record which contains medical, psychiatric or psychological data about any individual and which would be detrimental to the subject's mental health or for the safety of that individual to disclose.

(2) ACCESS TO  
CONTROLLED RECORDS

Upon an appropriate written request to the Records Administrator of the District, the District shall provide access to the requestor of controlled records to a physician, psychologist or certified social worker upon the submission of a release from the subject of the record that is dated not more than 30 days prior to the request or upon an order from a court of competent jurisdiction. All copies made from such records shall be marked "controlled" and disclosure is limited to the subject of the record and his medical professional, or to such other person named in the release.

C. PROTECTED RECORDS  
(1) Definition of  
"Protected Records"

The District hereby designates as "protected data" in the following documents:

- a. Any document disclosing a trade secret;
- b. Test questions or answers;

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### PROTECTED RECORDS (continued)

- c. Any document the disclosure of which may give an unfair advantage to a person or entity proposing to enter into a contract;
- d. Records touching upon the value of real property owned by the District which may be considered for sale;
- e. Any record that may jeopardize the life or safety of an individual if disclosed;
- f. Any record that would violate the normal professional practice or medical ethics;
- g. Any records which may jeopardize the security of District property or programs;
- h. Records touching upon audits, audit techniques, procedures and policies;
- i. Records touching upon issues of actual or potential litigation;
- j. Records touching upon collective bargaining strategy;
- k. Records touching upon occurrences covered by the Division of Risk Management;
- l. Records touching upon deliberations of the Board of Education acting in a judicial or review of prior decision capacity; or
- m. Records containing non-personal information touching upon formal evaluations not signed by the employee;

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### PROTECTED RECORDS (1) Definition of Protected Records (continued)

- n. Records touching upon an employee transfer, appointment, retention or promotion of employees.

Records generated in a meeting closed in accordance with the Utah Open and Public Meetings Act.

- o. Records containing non-personal information which are not placed in an employee's personnel file which are maintained by individual supervisors or administrators.

*Utah Code Ann. §63-2-304*

- p. Materials to which access must be limited for purposes of securing or maintaining the district's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets.

- (2) Protected Records Upon an appropriate request by the person who created the record, or a person who has a valid power of attorney from such person, or upon an order from the subject of the records or a person having a power of attorney or holding a notarized release from the subject of the record, or from a court of competent jurisdiction, the District shall provide access to such records only to such persons and all copies made from such records shall be marked, "confidential."

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### D. STUDENT RECORDS

All Student records shall be designated "education records" and the disclosure of such education records shall be governed pursuant to 20 U.S.C. § 12-32(g) and 34 C.F.R. § 99, et seq., and 34 C.F.R. § 300, et seq. The District may not release information related to educational records without parental consent, except as provided by the Family Educational Rights and Privacy Act (FERPA).

### E. COPYRIGHTED OR PATENTED MATERIALS

Any document which is copyrighted, either by formal filing under federal copyright laws or by informal claim of copyright, or which is covered by a patent, trademark or other protective designation, shall not be copied or provided to any person without an order of a court of competent jurisdiction ordering such disclosure.

### FEEES FOR SEARCH AND/OR DUPLICATION OF RECORDS

A fee shall be charged for the District's actual cost of duplicating a requested record and also for the personnel time in compiling and obtaining the record as follows:

- a. tēn cents (10 ¢) per page for each single sided copy and twenty cents (20 ¢) per page for each double sided copy;
- b. \$12.50 dollars per hour for the time spent by any District personnel searching for and compiling documents for copying. However, no fee may be charged for; (i) making a record available to be viewed in the same context that the record is kept in the regular course of carrying on business to determine whether the record is subject to disclosure or; (ii) the requestor's inspecting the record

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### FEES FOR SEARCH AND/OR DUPLICATION OF RECORDS (continued)

- c. An additional charge of \$ 3.00 shall be charged per each page of a document which has been requested to be certified.
- d. The District shall require all past fees of the requestor to be paid before copying if fees are expected to exceed \$50.00, or if the requestor has not paid fees from a previous request.

*Utah Code Ann. §63-2-203(h)*

### PROCEDURES

Each requestor shall submit a written request specifically identifying those documents requested. The request shall specifically state whether the documents sought are: (1) to be copied; or (2) identified to determine whether they are subject to disclosure; or (3) to be allowed to inspect a specific record. In the event that a document is specifically identified and designated for copying, the requestor shall submit sufficient funds with the written request to pay for all copies requested to be copied.

### RESPONSE TIMES

The District shall respond to the request to copy within fifteen (15) days. The District hereby finds that it does not have adequate resources to respond to document requests and appeals in the time period set forth in § 63-2-204 of GRAMA and therefore it opts these alternative time periods. The District shall respond to an appropriate request by:

- a. Approving the request and providing the records;
- b. Denying the request;
- c. Notifying the requestor that it does not maintain the records; or

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### RESPONSE TIMES (continued)

- d. Notifying the requestor that extraordinary circumstances exist which make it impractical to approve or deny the request and specifying the earliest time when the records will be available.

### NOTICE OF DENIAL

If a request is denied, a written notice of denial shall be delivered in person to the requestor or mailed to the requestor's address. The notice shall contain a description of the record or portions of the record to which access is denied. The notice shall contain citations to the provisions of state statute, federal statute, federal regulation or court rule or order that exempts the record or portions of the record from disclosure. Neither the description of the record nor the citations shall disclose protected information. The notice shall indicate that the requestor has the right to appeal to the Board of Education and shall state the time period for commencing the appeal.

### TIME LIMIT FOR APPEALS

In the event that the District either denies access to or the right to copy a requested document, the requestor shall submit an appeal of the request to the Board of Education of the District in writing which specifically states the documents which have been designated for copying or for inspection, the date of the request, the date of the denial of the request, all circumstances surrounding the denial, the reasons stated for the denial, and attaching a copy of any funds which have been submitted to pay for copies if copies have been requested. The Board of Education shall respond to such request within thirty (30) days after the requestor has submitted the appeal to the Board of Education. The Board of Education shall submit a written response either granting the requestor's request or

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affirming the denial of the request for documents.

### MANAGEMENT

Documents shall be managed by the administrative staff in each school and by each separate department of the District office. Each school and each department of the District office shall provide for the economical and efficient management of records. The District will appoint one or more records officers who will be trained to work with the State archives in the care, maintenance, scheduling, disposal, classification, designation, access and preservation of records. The District will make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the District designed to furnish information to protect the legal and financial rights of persons directly affected by the entity's activities. Proposed schedules of records will be submitted to the State archivist for final approval by the records committee. The District will cooperate with the State archivist in conducting survey's made by the State archivist. The District will comply with rules issued by the Department of Administrative Services. The designation of record series that are maintained by the District shall be reported to the State archives.. The classification of each record series that is classified shall also be reported to the State archives. Retention schedules for objects that the District determines are not records but that do have historical or evidentiary value shall be established and reported to the State archives.

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### RETENTION

All public, private, controlled and protected documents must be maintained by the District for at least six (6) years, after which the District may discard, destroy or dispose of any such documents, except that records which are the subject of a request which has been denied shall not be disposed of or destroyed until the appeals process is finalized.

### PRIVILEGED DOCUMENT

The District reserves the right to claim a privilege with respect to all documents which are subject to attorney work product, attorney-client, physician-patient, psychiatrist-patient or other statutory privilege.

### JUDICIAL REVIEW

Any party may appeal the Board of Education's decision to the district court in the county where the District is located. The petition shall be filed no later than fifteen (15) days after the date of the Board of Education's decision or order.

### RIGHT TO SEE PUBLIC RECORDS

Except as otherwise set forth herein, District documents are "public" documents and every person has the right to inspect and to take a copy from 9:00 a.m. to 3:00 p.m. subject to the provisions of this policy.

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### RIGHT TO COPIES

If an appropriate requestor requests to have copies of more than 50 pages of records, the District in its sole discretion may provide the requestor with facilities to make copies and require the requestor to make copies himself at his own expense.

### SEGREGATION OF RECORDS

Notwithstanding any other provision in this policy, if a request is received for access to a record that contains both information that the requestor is entitled to inspect and information that the requestor is not entitled to inspect, and if the information the requestor is entitled to inspect is intelligible, the requestor shall only be allowed access to the information in the record that the requestor is entitled to inspect.

### AMENDING RECORDS

An individual may contest the accuracy or completeness of any public, private or protected record concerning the individual by requesting the District to amend the record. A request must contain the requestor's name, mailing address and daytime telephone number and a brief statement explaining why the District should amend the record.

The District shall issue an order either approving or denying the request to amend within thirty days after receipt of the request.

If the District approves the request, it will correct all of its records that contain the same incorrect information as soon as practical. A record may not be disclosed until it has been amended pursuant to an approved request.

If the District denies the request, it will inform the requestor in writing and

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provide a brief statement giving the reasons for the denial. The requestor may then submit a written statement contesting the information in the record. On receipt of such written statement, the District will file the 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. The District will disclose the requestor's statement with the information in the record whenever the District discloses the disputed information.

The requestor may appeal the denial of the request to amend a record. An appeal shall be made in writing to the Board of Education for the District, within 30 days of issuance of the denial.

Notwithstanding the above, this section regarding amendments does not apply to records relating to title to real or personal property, medical records, judicial case files or any other records that the District determines must be maintained in their original form to protect the public interest and to preserve the integrity of the records system.