

ARTICLE 110

TRANSPARENCY

PUBLIC RECORDS ACT GUIDE

1. **Fundamental Right of Access to Information.** The public has a fundamental right to access information that enables the public to monitor the functioning of the District and its affiliated agencies.
2. **Interpretation.** The Public Records Act must be broadly interpreted in a way that maximizes the public's access to information.
3. **Agencies Subject to Public Records Act.** The District and all of its affiliated agencies are subject to the Public Records Act.
4. **Public Records.** Any record that contains information relating to the conduct of the public's business, and they are prepared, owned, used, or retained by the District is considered a public record subject to the Public Records Act.
5. **Forms of Records.** Records can be in the form of electronic records (such as pdfs, jpegs, tiffs, etc.) paper, drawings, emails, texts, photographs, photocopies, and facsimile transmissions.
6. **Location of Records.** Records can be located in file cabinets, in desk drawers, in storage closets, on hard drives, on bulletin boards, on the District's server, in data bases, in email boxes, in text messages, or stored on an employee/official's personal mobile device.
7. **Persons Who May Request Records.** Members of the public, including citizens/residents and non-citizens/non-residents, public officials, other public entities, private businesses, corporations and partnerships, have the right to inspect and copy disclosable public records. The requestor does not have to be a resident of the District or State.
8. **Local Public Officials.** Local public officials are entitled to access public records on the same basis as any other person. However, when authorized to do so as part of their official duties, local public officials may access public records of the District that are otherwise exempt.
9. **Where to Inspect Records.** Any person may inspect public records at the District's main office or other District offices, obtain copies from the District, or retrieve the requested public records from the District's website.

10. **Purpose of Inspection/Copies of Records.** The purpose of a request to inspect or copy records is irrelevant and may not be used as justification for denying records. The only time it may be relevant is if the District is trying to help the requestor identify the records needed and/or to help the requestor narrow down the request if it is overly broad.
11. **When to Inspect Records.** Any person may inspect the District's public records during the District's regular office hours.
12. **Format for Providing Records.** If a requestor does not specify the format for inspecting or obtaining a copy of the records sought, the District should seek clarification from the requester to avoid unnecessary copying costs.
13. **Posting requested records on website.** The District may post the requested record on its website and direct a member of the public to that website location. If the requestor cannot access or reproduce the records from the website, the District must provide a copy to the requestor.
14. **Providing exact copies.** If a record copy has been requested, the District must provide an exact copy that is reasonably possible.
15. **Providing electronic copies.** If the requested record is stored in an electronic format, the District must provide the requested record in its electronic format unless otherwise requested.
16. **Request for Voluminous Amount of Records.** If the request is for a voluminous number of classes of documents, the District has the following options:
 - **Narrow Request.** Ask the requester to narrow the request;
 - **Later Deadline.** Ask the requester to consent to a later deadline for responding; and/or
 - **Rolling Production.** Provide responsive records on a "rolling" basis, rather than all at once.

NOTE: Some requests may impose a substantial enough burden on the District to justify withholding the requested records on the basis that the public interest in nondisclosure clearly outweighs the public interest in disclosure, because the costs and staff time required to search and produce the documents would be excessive and burdensome.

17. **Response Time.** The District has 10 calendar days to respond to the requestor. This does not mean the District has to produce the records within 10 calendar days.

18. Extending Response Time Up to an Additional 14 Days. The District may extend the 10- day response period for up to 14 additional calendar days under the following unusual circumstances¹:

- To search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- To search for, collect, and examine a voluminous amount of separate and distinct records that are demanded by a single request;
- To consult with another agency that has a substantial interest in the determination of the request or among two or more components of the agency with substantial interests in the request; or
- To compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Exercising the right to extend the response time an additional 14 days must be done in writing, stating the reasons for the extension and the anticipated date of the response within the 14-day extension period.

Consent of the requester is not required to extend the time for an additional 14 days, unless the District does not qualify for the additional 14-day extension, in which case the consent should be in writing.

19. Locating Requested Records. The District must make a reasonable effort to search for and locate requested records, including asking probing questions of District staff and consultants, but not required to perform a "needle in a haystack" search.

20. Records that May Exist on Personal Devices. Communicate the request to any employee or official who may have the requested information on his/her personal devices and ask employee or official to conduct their own searches for public records on their personal devices for the requested information.

NOTE: The District's Electronic Data Policy requires all employees and officials to use the District's official accounts to conduct District business and to copy or forward all District business related emails or text messages and their attachments to the District for official recordkeeping.

21. Redacting Records. Some records contain information that must be disclosed, along with information which may be exempt from disclosure. The District must provide a record to the requester in redacted form if the nonexempt information is "reasonably segregable" from exempt information. If exempt information is inextricably intertwined with nonexempt information, the entire record may be withheld.

22. Personnel Records – Special Considerations. Requests for personnel records shall be treated as follows:

- Subject to Disclosure:
 - Employee Names
 - Employment Contracts
 - Employee Salaries, including bonuses and overtime
 - Identities of Pensioners
 - Pension Benefits
 - Documents appointing and then rescinding a public employee appointment²

- Exempt from Disclosure:
 - Medical Records and Other Medical Information
 - Individual Medical Insurance Information
 - Individually Identifiable Health Information³
 - Physician-Patient Privileged Information⁴
 - Workers' Compensation Benefits Regarding Specific Employee
 - Trivial or groundless charges of misconduct by non-safety public employees.⁵
 - Personal information provided to a retirement system by a member or on a member's behalf, such as a member's personal email address, home address, telephone number, Social Security number, and birth date, age at retirement, benefits election, or health reports concerning a member. ⁶
 - Misc. Personnel Records. The courts weigh the harm from unwarranted disclosure against the public interest in disclosure, and consider the extent to which disclosure will shed light on the local agency's performance of its duties.

23. Personal Contact Information – Special Considerations. Individuals generally have a substantial privacy interest in their personal contact information, and a specific factual analysis is required to determine whether the public interest exemption protects the information from disclosure.⁷

24. Specific Exemptions from Disclosure. Records containing the following information shall not be produced for inspection or copying:

- **Contractor payroll records.**⁸
- Home address and telephone numbers in firearm license applications and permits of listed officials.⁹
- Informant identity.¹⁰
- Lawyer referral service communications.¹¹
- Library patron use records.¹²
- Licensee financial information.¹³

- Mental health detention information.¹⁴
- Official information.¹⁵
- Patient information.¹⁶
- Public official home contact information.¹⁷
- Public services recipients' information.¹⁸
- Real estate appraisals and engineering evaluations.¹⁹
- Taxpayer information.²⁰
- Test questions and examination data.²¹
- Trade secret and other proprietary information.²²
- Vendor's or contractor's unique identifying code used by public agency in public bidding or audit.²³
- Voter registration information.²⁴
- Certain child abuse reports.²⁵
- Elder abuse records.²⁶
- Juvenile police and court records.²⁷
- Photographs or video recordings of the body of a deceased person taken for or by the coroner.²⁸

25. Special Exemptions. Records consisting or containing the following information are not subject to disclosure unless otherwise provided below:

- **Architectural Plans and Drawings.** Architectural plans cannot be copied without the express permission of the owner.²⁹
- **Building Plans Maintained by the District.** The official copy of building plans maintained by the District may be inspected but may not be copied without first requesting the written permission of the licensed or registered professional who signed the document and the original or current property owner.³⁰
 - This prohibition against copying building plans does not apply to interim grading documents, including geology, compaction, and soils reports, which are not exempt from disclosure.³¹
- **Code Enforcement Records – Criminal Offenses.** Code enforcement cases involving criminal sanctions may be exempt from disclosure, as long as there is a concrete and definite prospect of criminal enforcement.³²
 - Records of code enforcement cases that are prosecuted administratively do not qualify for exemptions applicable to law enforcement records.³³
- **Complainant Names and Contact Information.** Names and contact information of complainants may still be exempt from disclosure.³⁴

- 26. Deliberative Process Privilege - Exemption.** The following items are exempt from disclosure if they are not retained by the District in the ordinary course of business, as set forth in the District's Record Retention Schedule, and the disclosure of materials would expose the District's decision-making process so as to discourage candid discussion within the District and thereby undermine the District's ability to perform its functions.
- Drafts and Notes - Preliminary.³⁵
 - Memoranda - Interagency or Intra-Agency³⁶
 - Telephone Logs of Council Members³⁷
 - Telephone Logs of Staff³⁸
 - Names and Background Information of Commission Applicants³⁹
- 27. Public Interest Exemption/Catch-All Exemption.** Permits the District to withhold a record if the District can demonstrate that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure.⁴⁰
- 28. Attorney-Client Privilege Exemption.**
- **Attorney-Client Communications/Memoranda/Opinions and Other Attorney Work Product.**
 - Records protected by Evidence Code privileges are exempt from disclosure under the Public Records Act.⁴¹
 - Attorney-client privileged communications and attorney work product and other work product prepared for use in pending litigation or claims are exempt from disclosure.⁴²
 - Attorney-client-privileged and work product information is protected from disclosure even after litigation is concluded.⁴³
 - **Attorney Invoices and Attorney Retainer Agreements.**
 - Attorney billing invoices reflecting work in active and ongoing litigation are exempt from disclosure under the attorney-client privilege or attorney work product doctrine; other billing invoices are exempt only if they communicate information for the purpose of legal consultation or risk exposing information communicated for such purpose.⁴⁴
 - Retainer or fee agreements between local agencies and their attorneys constitute confidential communications within the scope of the attorney-client privilege.⁴⁵
- 29. Pending Litigation and Claims.** Records pertaining to pending litigation to which the District is a party or to claims made filed against the District under the California

Government Claims Act (Govt C §810 et seq.) until the pending litigation or claim has been finally adjudicated or otherwise settled.⁴⁶

- This exemption applies only to documents specifically prepared by, or at the direction of, the District for use in existing or anticipated litigation.⁴⁷
- Attorney billing and payment records related to ongoing litigation are not subject to the pending-litigation exemption, because such records are not primarily prepared for use in the litigation.⁴⁸
- Once litigation has concluded, previously exempt litigation-related records, including copies of depositions from closed cases, must be produced, unless covered by another exemption or statutory privilege.⁴⁹
- Documents concerning settlement of a claim must also be produced after the claim is finally settled unless other exemptions in the Public Records Act, such as the public interest exemption⁵⁰, or exemptions in other statutes, apply.⁵¹

30. No Duty to Create Records or Privilege Logs. The District does not have to create records that do not exist or to compile information, nor does the District have to create “privileged logs” that list which documents that are not exempt from disclosure.

31. Waiver. Generally, disclosure of an otherwise exempt record to any member of the public waives most of the exemptions contained in the Public Records Act for all future requests for the same record.⁵² However, disclosures to another governmental agency that agrees to treat the disclosed material as confidential.⁵³

32. Fees. The District may charge a fee for the direct cost of duplicating a record, subject to the following.⁵⁴

- Direct cost of duplication is limited to the actual cost of reproduction, such as the cost of running a copy machine, which may not include staff time for searches, but may conceivably include staff time for actually duplicating a record.⁵⁵
- The District may require payment in advance before providing the requested copies.⁵⁶
- Some statutes specify a precise reproduction cost.⁵⁷
 - FPPC Disclosure Statements must not exceed ten cents per page, except that the District may charge an additional \$5 fee for retrieving records that are 5 or more years old.⁵⁸
 - Public Works Payroll Records must not exceed \$1 for first page, 25 cents for each page thereafter, and \$10 for handling costs.
 - Electronic Copies of Project’s Contract Documents are exempt from District fees for production.

- Retrieving Electronic Data – The District may recover all costs associated with retrieving electronic data.⁵⁹

Reference: Resolution 2022-09

1 Cal. Govt. Code §6253(c)
2 *Braun v City of Taft* (1984) 154 CA3d 332
3 Govt C §6254(k); Govt C §6255
4 Evid C §§990-1007
5 *American Fed'n of State, County & Mun. Employees*, 80 CA3d 913 at 918
6 Govt C §§20134, 31532, 31526; *Sonoma County Employees' Retirement Ass'n v Superior Court*
(2011) 198 CA4th 986; *San Diego County Employees Retirement Ass'n v Superior Court* (2011)
196 CA4th 1228; *Sacramento County Employees' Retirement Sys. v Superior Court* (2011) 195
CA4th 440
7 Govt C §6255(a)
8 Lab C §1776
9 Govt C §6254(u)
10 Evid C §1041
11 Evid C §965(d)
12 Govt C §§6254(j), 6267
13 Govt C §6254(n)
14 Welf & I C §§5150, 5328
15 Evid C §1040
16 Evid C §994; CC §§56.05(g), 56.20, 56.35-56.36; Health & S C §1417 et seq.; Welf & I C §5000
et seq., §5328 et seq.; 42 USC §§1320d—1320d-9
17 Govt C §6254.21; 91 Ops Cal Atty Gen 19 (2008)
18 Welf & I C §§10850, 18909
19 Govt C §6254(h)
20 Govt C §6254(i); Rev & T C §§7056, 7056.5
21 Govt C §6254(g)
22 Evid C §1060; Govt C §§6254(e), 6254.2, 6254.7, 6254.15, 6255; CC §3426.1
23 Govt C §6254.33
24 Govt C §§6254.4, 6253.6; Elec C §2194
25 Pen C §§11165.6-11165.7, 11167.5, 11169
26 Welf & I C §15633
27 Welf & I C §§827, 827.9, 828
28 CCP §129
29 17 USC §102(a)(8)
30 Health & S C §19851
31 89 Ops Cal Atty Gen 39 (2006)
32 Govt C §6254(f); *Haynie v Superior Court* (2001) 26 C4th 1061; *State ex rel Division of Indus.*
Safety v Superior Court (1974) 43 CA3d 778
33 *Haynie*, 26 C4th 1061; *State ex rel Div. of Indus. Safety*, 43 CA3d 778
34 *City of San Jose v Superior Court* (1999) 74 CA4th 1008
35 Govt C §6254(a)
36 Govt C §6254(a)
37 *Rogers v Superior Court* (1993) 19 CA4th 469
38 Currently Undecided
39 *Wilson v Superior Court* (1996) 51 CA4th 1136
40 Govt C §6255; *Times Mirror Co. v Superior Court* (1991) 53 C3d 1325
41 Govt C §6254(k)

42 *Fairley v Superior Court* (1998) 66 CA4th 1414
43 *Roberts v City of Palmdale* (1993) 5 C4th 363; *Fellows v Superior Court* (1980) 108 CA3d 55,
44 disapproved on other grounds in *Coito v Superior Court* (2012) 54 C4th 480
45 *Los Angeles County Bd. of Supervisors v Superior Court* (2016) 2 C5th 282
46 Bus & P C §6149; Evid C §§952, 954
47 Govt C §6254(b)
48 *Fairley v Superior Court* (1998) 66 CA4th 1414; *City of Hemet v Superior Court* (1995) 37
49 CA4th 1411
50 *County of Los Angeles v Superior Court* (2012) 211 CA4th 57
51 *City of Los Angeles v Superior Court* (1996) 41 CA4th 1083
52 Govt C §6255
53 *Register Div. of Freedom Newspapers, Inc. v County of Orange* (1984) 158 CA3d 893.
54 Govt C §6254.5; 86 Ops Cal Atty Gen 132 (2003)
55 Govt C §6254.5
56 Govt C §6253(b)
57 See *North County Parents Org. for Children With Special Needs v Department of Educ.* (1994) 23
58 CA4th 144, 148
59 Govt C §6253(b)
Govt C §6253(b); 85 Ops Cal Atty Gen 225 (2002)
Govt C §81008; see also 8 Cal Code Regs §16402
Govt C §6253.9(b)