



SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 10.2

Meeting Date: September 21, 2017

Subject: Revisions to Board Policy (BP) 1340, Access to District Records

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: October 5, 2017)
- Conference/Action
- Action
- Public Hearing

Division: Legal Services

Recommendation: Approve revisions to District policy regarding access to District records.

Background/Rationale:

A Public Record is defined by Government Code Section 6252(e) as:

“Any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”

The recent California Supreme Court decision in *City of San Jose v. Superior Court* provided that communications on officials and employees’ private email/devices that relates to agency business meets the above definition.

Therefore, Policy 1340 requires revision to clarify that in response to a public records request, the District shall make reasonable efforts to locate the requested records, including those that are transmitted through an employee’s or Board member’s personal device or account.

Financial Considerations: None

LCAP Goal(s): Operational Excellence

Documents Attached:

1. Executive Summary
2. Revised BP 1340
3. Revised red-line of BP 1340

Estimated Time of Presentation: 5 minutes

Submitted by: Raoul Bozio, In House Counsel

Jessie Ryan, Chair of Governance and Policy Committee

Approved by: Jorge A. Aguilar, Superintendent

Board of Education Executive Summary

Legal Services

Board Policy (BP) 1340: Access to District Records

September 21, 2017



I. Overview/History of Department or Program

The District, as a public entity, must comply with valid requests for public records. A Public Record is defined by Government Code Section 6252(e) as:

“Any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”

The recent California Supreme Court decision in *City of San Jose v. Superior Court* provided that communications on officials and employees’ private email/devices that relate to agency business meet the above definition. Policy 1340 requires revision to clarify that in response to a public records request, the District shall make reasonable efforts to locate the requested records, including those that are transmitted through an employee’s or Board member’s personal devices or accounts.

Thus, officials and employees must make a good faith effort to locate and provide any such public records located on their private accounts or devices. Furthermore, in order to avoid the need for such, officials and employees should use only District provided accounts and devices for public business.

II. Driving Governance:

Government Code Section 6250, et seq.

III. Budget:

No measurable impact

IV. Goals, Objectives and Measures:

V. Major Initiatives:

Operational Excellence

VI. Results:

VII. Lessons Learned/Next Steps:

Next Steps include the adoption of this Board Policy at the October 5th, 2017 Board Meeting. Memoranda concerning these matters has previously been shared with staff, and further updates and guidance will be provided.

Sacramento City USD

Board Policy

Access To District Record

BP 1340

Community Relations

The Governing Board recognizes the right of citizens to have access to public records of the district. The Board intends the district to provide any person reasonable access to the public records of the schools and district during normal business hours and within the requirements of state and federal law. Such records shall be examined in the presence of the staff member regularly responsible for their maintenance or his or her designee.

The district may charge for copies of public records or other materials requested by individuals or groups. The charge shall be based on actual costs of duplication, as determined by the Superintendent or designee and as specified in administrative regulation.

Public access shall not be given to records listed as exempt from public disclosure in the California Public Records Act or other statutes.

(cf. 3553 - Free and Reduced Price Meals)

(cf. 4112.6/4212.6/4312.6 - Personnel Files)

(cf. 4112.62/4212.62/4312.62 - Maintenance of Criminal Offender Records)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 6162.5 - Student Assessment)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

(cf. 9321 - Closed Session Purposes and Agendas)

Legal Reference:

EDUCATION CODE

35145 Public meetings

35170 Authority to secure copyrights

35250 Duty to keep certain records and reports

41020 Requirement for annual audit

42103 Publication of proposed budget; hearing

44031 Personnel file contents and inspections

44839 Medical certificates; periodic medical examination

49060-49079 Pupil records

49091.10 Parental review of curriculum and instruction

52850 Applicability of article (School-Based Program Coordination Plan availability)

GOVERNMENT CODE

3547 Proposals relating to representation

6250-6270 California Public Records Act

6275-6276.48 Other exemptions from disclosure

53262 Employment contracts

54957.2 Minute book record of closed sessions

54957.5 Agendas and other writings distributed for discussion or consideration

81008 Political Reform Act, public records; inspection and reproduction

CALIFORNIA CONSTITUTION

Article 1, Section 3 Right of access to governmental information

CODE OF REGULATIONS, TITLE 5

430-438 Individual pupil records

COURT DECISIONS

International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County, (2007) 42 Cal.4th 319

Los Angeles Times v. Alameda Corridor Transportation Authority, (2001) 88 Cal.App.4th 1381

Kleitman v. Superior Court, (1999) 74 Cal.App. 4th 324

Fairley v. Superior Court, (1998) 66 Cal.App. 4th 1414

North County Parents Organization for Children with Special Needs v. Department of Education, (1994) 23 Cal.App. 4th 144

ATTORNEY GENERAL OPINIONS

71 Ops.Cal.Atty.Gen. 235 (1988)

64 Ops.Cal.Atty.Gen. 186 (1981)

Management Resources:

ATTORNEY GENERAL PUBLICATIONS

Summary of the California Public Records Act, 2004

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

The People's Business: A Guide to the California Public Records Act, 2008

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.caag.state.ca.us>

Institute for Local Government: <http://www.cacities.org/index.jsp?zone=ilsg>

State Bar of California: <http://www.calbar.ca.gov>

Policy SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

adopted: November 5, 2001 Sacramento, California

revised: May 21, 2009

Sacramento City USD

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In response to a public records request, the Superintendent or designee shall make reasonable efforts to locate the requested records, including, but not limited to, any electronic communication substantively related to the records, such as email, text messages, instant messages, and other electronic communications, regardless of whether they are transmitted through a district-provided device or account or through an employee's or Board member's personal device or account.

The district may charge for copies of public records or other materials requested by individuals or groups. The charge shall be based on actual costs of duplication, as determined by the Superintendent or designee and as specified in administrative regulation.

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State Bar of California: <http://www.calbar.ca.gov>

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adopted: November 5, 2001

Sacramento, California

revised: May 21, 2009

revised: August , 2017