



KITTITAS COUNTY FIRE DISTRICT NO. 7 POLICY OPERATING GUIDELINE

GUIDELINE NUMBER:	103
SECTION:	ADMINISTRATIVE
TITLE:	RECORDS POLICY AND PROCEDURE
EFFECTIVE DATE:	12/12/18
REVISION DATE(S):	
APPROVED BY:	COMMISSIONERS/FIRE CHIEF PALMER

1.0 **PURPOSE:**

- 1.1 To define a clear path and procedure for maintaining records and allowing public records access.

2.0 **POLICY:**

- 2.1 Kittitas County Fire & Rescue 7 (KCFR7) is committed to providing the public full access to public records in accordance with the Washington State Public Records Act (PRA), referenced in RCW Chapter 42.56 and the Model Rules of WAC 44.14. The purpose of the PRA is to provide the public with full access to records concerning the conduct of government, mindful of individual privacy rights and the desirability of the efficient administration of government.

The PRA Disclosure policy establishes the procedures the District will follow to provide for the fullest assistance to requestors including the timeliest possible action on request, while protecting public records from damage and preventing “excessive interference with other essential agency functions,” (RCW 42.56.100). The District must also insure that its record disclosure policy and procedure protect against the invasion of an individual’s right to privacy and restricts access to its records that are exempt from public disclosure.

The inspection and copying of District records must be conducted under the supervision of District personnel to protect the records. The District has a limited number of office personnel available to provide the required supervision. While the District will make every effort to provide prompt responses to record inspection and copying requests, the District cannot permit the response to record requests to unduly interrupt the normal operations of the District.

To insure the protection of the District records and to prevent the improper disclosure of records, no District personnel shall have access to District records, without the approval of the District Public Records Officer, unless their regular job duties require access. While District personnel shall have access to District records that they must use in the performance of their assigned duties, they shall not have access to confidential information that is exempt from disclosure and which is not necessary for the performance of their duties. In the event personnel are afforded

access to confidential records, they must not improperly use or disclose the information or records.

This policy and procedure shall apply to members of the public and to all District personnel including officers, paid and volunteer employees, independent contractors who are retained by the District, and Commissioners. Except where these guidelines are mandated by statute, the guidelines 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 as it sees fit, and to revise or change the policy at any time.

3.0 REFERENCES:

- 3.1 Washington State Public Records Act (PRA), referenced in RCW Chapter 42.56
- 3.2 Model Rules of WAC 44.14.

4.0 DEFINITIONS:

- 4.1 **Public Records.** Public records of the District include any record containing information relating to the conduct or performance of any governmental function prepared, owned, used, or retained by the District as defined in chapter 42.56 RCW. Public records do not include personal records of District employees or officials that may be in the possession of the employee or official, or located in their office, lockers or living quarters.
- 4.2 **Electronic Public Records.** Electronic public records of the District include all data compilation stored and retained on the District computers containing information relating to the conduct or performance of any governmental function prepared, owned, used, or retained by the District. Electronic public records do not include personal materials entered or stored on District computers by employees and officials when using the computers for incidental personal use.
- 4.3 **Record.** As used in this policy and procedure the “record” available to the public for electronic stored records shall be a printout of the stored record.
- 4.4 **Copy.** As used in this policy and procedure a “copy” of a record shall mean a duplicate of the record in the same media, except that a “copy” of an electronic stored record shall mean a printout of the record, or in the sole discretion of the District Public Records Officer an electronic version in a commercially available format.
- 4.5 **Public Records Officer.** The District Public Records Officer shall be designed by the Fire Chief.

4.6 **District Review Authority.** The District Review Authority shall be the District legal counsel.

5.0 RECORDS ACCESS AND COPING:

5.1 **Computer Network.** In order to maintain the security of the records as required by RCW 42.56.100, District, computer hardware shall not be available to the public for review of electronic records.

5.2 **Public Records Availability.** The records or printouts of all electronic public records of the District, as defined above, are available for public inspection pursuant to these rules, except as otherwise provided by chapter 42.56 RCW and other applicable statutes.

5.3 **Location of Records.** The District's public records shall be maintained at the District headquarters station or such other locations as the Board of Commissioners approves. All records shall be in the custody of the District's Public Records Officer who shall be responsible for the implementation of these rules.

5.4 **Hours for Inspection and Copying.** Consistent with the requirements of the Public Records Act, The Public Records Officer will generally be available to schedule times during the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday excluding legal holidays. The availability of District staff during these hours may be limited by budgetary constraints, staff workloads, volume of public records requests, and other factors related to the District's primary purpose of providing its essential functions in the community. Scheduling inspection times in advance is strongly advised to help ensure staff availability.

5.5 **Protection of Public Records.** In order to protect public records from damage and disorganization, the following requirements are adopted pursuant to RCW 42.56.100.

5.5.1 Public records must be inspected in the presence of a designated District employee.

5.5.2 Requestors may not remove public records from the viewing area.

5.5.3 Public records may not be marked, altered or defaced by a requestor.

5.5.4 Access to file cabinets, shelves, or District storage areas is restricted solely to District personnel.

5.6 **Request for Public Records.** In accordance with the provisions of chapter 42.56 RCW public records may be inspected and copied, or copies obtained by members of the public as follows:

- 5.6.1 Requests shall be made in writing to the District's Public Records Officer on a form provided by the District and shall include the following information:
- The name and address of the person requesting the record.
 - The time of day and calendar date on which the request is made.
 - The nature of the request.
 - If the record requested is referenced in a current index maintained by the District, a reference to the requested record as it is describing in such index.
 - If the requested record is not identifiable by reference to an index, an appropriate description of the record requested.
 - If the requested record is a list of individuals, a signed statement that the information will not be used for commercial purposes must be completed.
 - A statement that the records including lists of individuals are not being requested for commercial purposes.
- 5.6.2 All mailed or emailed requests shall contain the information described above and shall be mailed or delivered in person to the District headquarters station or emailed to office@kcf7.com
- 5.6.3 In all cases in which a member of the public is making a request it shall be the obligation of the employee to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

5.7 Exception from Public Inspection.

- 5.7.1 The District reserves the right to determine that a record requested is exempt in whole or in part from public inspection under chapter 42.56 RCW or other applicable statutes.
- 5.7.2 In accordance with RCW 42.56.070 the District reserves the right to delete identifying details when it makes available any public record or printout of a public record in any case where there is reason to believe that disclosure of details would be an invasion of personal privacy protected by chapter 42.56 RCW or other applicable statutes. The employee who deletes information shall fully justify the deletion in writing.
- 5.7.3 All denials of requests for copies of public records shall be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the

record or portion of the record and a brief explanation of how the exemption applies to the record.

5.8 Duties of Public Records Officer. The Public Records Officer shall undertake the following analysis with respect to all records requests:

- 5.8.1 The Public Records Officer shall review the request form and shall review the requested record to determine the nature of the information contained in the record; and, to determine whether or not the release of the requested record is exempt from public inspection under chapter 42.56 RCW or other applicable statutes.
- 5.8.2 If the record requested is classified as a medical record the Public Records Officer shall determine whether the patient has authorized disclosure of the medical record pursuant to RCW 70.02.030. In the absence of patient authorization, the Public Records Officer shall determine whether the requestor is an authorized recipient of the record as defined in RCW 70.02.050.
- 5.8.3 If the disclosure of the record requested is restricted by any other federal or state statute, the Public Records Officer shall comply with the restrictions or the procedure required for the release of the requested information.
- 5.8.4 In the event it is determined that there would be no violation of the right to privacy by the disclosure of the record, or any information contained in the record, or that the information is not exempt from disclosure, the Public Records Officer shall determine if the record may be inspected or copied in its entirety and if so, the inspection or copying shall be permitted.
- 5.8.5 In the event the record contains confidential information and public information, the Public Records Officer shall segregate the public information from the confidential information, prepare a copy of the record showing only the disclosable portion; and, release or permit copying of only the public information.
- 5.8.6 In the event the record contains information that affects the privacy interest of a third party and the Public Records Officer reasonably believes that an argument could be made that the record is exempt, the Public Records Officer shall provide notice, in accordance with RCW 42.56.540, to the affected third party of the District's intent to disclose the record.

5.9 Response to Request for Records. The Public Records Officer, within five business days after receipt of the request (within fifteen business days of a patient's request for the patient's medical records) shall take one of the following actions:

5.9.1 In the event the Public Records Officer determines that the request requires clarification, the Public Records Officer shall acknowledge receipt of the request and ask the requestor to clarify what record the requestor is seeking. When requesting a clarification, the Public Records Officer shall, to the greatest extent possible, also provide a reasonable estimate of the time it would take to produce the records if the request were not clarified. If the requestor fails to clarify the request, the Public Records Officer shall provide no further response to those portions of the request that were not clarified.

5.9.2 In the event the Public Records Officer determines that a full response will take longer than five business days after receipt of the request the Public Records Officer shall acknowledge receipt of the request and provide a reasonable estimate of when the District will respond. The determination of the time required to respond to the request will be based on a consideration of the following factors:

- Clarity of the request,
- Time required to locate and assemble the information requested,
- Time required to notify third persons or agencies affected by the request,
- Time required to determine whether any of the information requested is exempt,
- Time required obtaining the consent of a person identified in the record if consent is required by statute.
- Current staffing levels and essential job functions that must be performed by staff prior to locating and assembling the record requested.
- Volume of pending public records requests. The general policy of the District shall be to respond to records requests on a first come first serve basis. However, the Public Records Officer retains discretion to respond to request out of order of receipt when such out of order responses are more efficient.
- Impact on Essential Functions. The Public Records Officer has numerous duties, in addition to responding to records requests, that are essential to the effective operation of the District. In situations where the Public Records Officer is unable to perform the essential duties and respond to all pending records requests, the Public Records Officer shall notify the Board of Fire Commissioners to determine the appropriate action.

- 5.9.3 Provide the record for inspection or provide a copy of the record if requested. For large requests the District shall attempt, where feasible, to release the records in reasonable installments as the records become available.
- 5.9.4 In the event the Public Records Officer determines the request meets the statutory definition of a "bot request" the District may deny the request if responding to the request would cause excessive interference with other essential functions of the District. (A "bot" request means a records request that an agency reasonably believes was automatically generated by a computer program or script.)
- 5.9.5 Deny the request.
- All denials shall contain the information specified in 5.7.3.
 - Denials of a patient's request for the patient's medical records shall comply with the requirements specified in RCW 70.02.090.

5.10 Review of Denials

- 5.10.1 Any person who objects to the denial of a request to inspect or copy a public record may petition for a prompt review of the decision by submitting a written request for review to the Public Records Officer.
- 5.10.2 Upon receipt of a written request for review a decision denying inspection or copying of a public record, the District Public Records Officer shall refer it to the District Review Authority. The District Review Authority shall promptly review the matter and either affirm or reverse the denial. The final decision shall be rendered to the individual who requested the record within two business days after the review request.
- 5.10.3 In the event the request for the record or information from the record is made by an elected or appointed official of the District, the information is deemed to be needed for the proper performance of the official's duties and consent to the release of the information is required but cannot be obtained, the official shall be required to sign a confidentiality agreement before being allowed access to the requested information.
- 5.10.4 Administrative remedies shall not be considered exhausted until the District has returned the request with the decision, or until a period of five business days has elapsed after the denial of the request, or after the review of the initial denial.

5.11 Fees. The following charges shall be imposed to reimburse the District for costs incurred in providing public records. In the event the District is requested to mail

copies an additional charge in the amount of the actual or estimated postage and the cost of the container shall be made.

5.11.1 **General Records.** With the exception of medical incident reports, the District shall charge a fee of fifteen cents per page for providing a photocopy or a printout of an electronic record. The District may also charge for the actual cost of any container or envelope used to deliver records and the actual cost of postage or delivery charge. The Public Records Officer may waive copying fees as a matter of administrative convenience for small requests.

5.11.2 **Electronic Records.** With the exception of medical incident reports, if records are provided in electronic format the District shall charge a fee of ten cents per page for hard copies scanned into an electronic format and five cents for each four electronic files or attachments transmitted electronically and ten cents per gigabyte for transmitting electronic records. The District may also charge for the cost of the media on which the record is disclosed (CD, DVD, etc.).

5.11.3 **Medical Incident Reports.** In accordance with chapter 70.02 RCW the District shall charge the rates established by the Department of Health (WAC 246-08-400), which until June 30, 2019, establishes a clerical fee for searching and handling requests for medical incident reports of \$26.00 for each report. In addition, the District shall charge \$1.17 per page for the first 30 pages and \$.88 per page for all additional pages of each report copied or printed out. The Public Records Officer may waive copying fees as a matter of administrative convenience for small requests.

5.11.4 **Video and Audio Tapes.** The District shall charge the actual cost it incurs in commercially duplicating audio or visual tape records.

5.11.5 **Customized Service Charge.** The District may impose a customized service charge for requests that require the use of IT expertise beyond the level that can be met by staff. In the event the Public Records Officer determines that IT expertise will be necessary to comply with the request, the Public Records Officer shall use the following procedures:

- The Public Records Officer shall notify the requestor of the charge, shall provide an explanation of why the charge is necessary, and shall provide a reasonable estimate of the charge. The requestor shall be provided an opportunity to amend the request to avoid the need for the charge.

- 5.11.6 **Flat Fee.** The District may, in lieu of the fees set forth in 5.11, charge a flat fee of \$2.00 per request when such request is reasonably anticipated to generate costs in excess of \$2.00.
- 5.11.7 **Deposits and Installments.** In accordance with RCW 42.56.120, the district may require a deposit of up to 10% of the estimated cost of copying records prior to copying records for a requestor. If the District releases records on a partial or installment basis, it will charge for each part of the request as provided.
- 5.11.8 **Fee Estimates.** The District may, and shall when specifically requested, provide a summary of the estimated applicable charges prior to producing the records and shall allow the requestor to revise the request to reduce the applicable charges.
- 5.12 Records Index.** The District may not maintain a complete current index which provides identifying information as to all the records maintained by the District when, due to staffing and resource levels, the creation of a complete index would be unduly burdensome to the District.
- 5.13 Record Request Log.** The Public Records Officer shall maintain a log of public disclosure requests received by the District. The log shall include the following minimum information.
- Identity of requestor if available
 - Date request received
 - Test of original request together with any clarifications received;
 - Description of records produced;
 - Description of any records withheld or redacted and the reasons supporting the withholding or redaction;
 - The final disposition of the request.
- 5.14 Medical Records.** Records containing individually identifiable health information regarding a District patient are subject to additional protections under chapter 70.02 RCW and HIPAA. Requests for medical records must be accompanied by the patient's consent or the requestor must identify the legal basis under which the District is authorized to release the record without patient consent.
- 5.15 Records Training – Commissioners.** District Commissioner shall comply with the training requirements of RCW 42.56.150 within 90 days of taking office and shall renew such training at least every four years while in office.
- 5.16 Records Training – Public Records Officer.** The District's Public Records Officer shall comply with the training requirements of RCW 42.56.152 within 90 days of

assuming the position of Public Records Officer and shall renew such training at least every four years while serving as Public Records Officer.

Statutory Provisions that may affect the disclosure of records

- RCW 5.60.060 Attorney Client Privilege
- RCW 10.52.100 Records identifying child victim of sexual assault
- RCW 18.71.0195 Medical Disciplinary Reports
- RCW 19.34.240(3) Private digital signature keys
- RCW 26.12.170 Reports of child abuse/neglect with courts
- Ch. 26.23 RCW Domestic Relations – State Support Registry
- RCW 26.44.010 Privacy of reports on child abuse and neglect
- RCW 26.44.020(19) Unfounded allegations of child abuse or neglect
- RCW 26.44.030 Reports of child abuse/neglect
- Ch.40.14 RCW Preservation and destruction of public records
- Ch.40.24 Address confidentiality for victims of domestic violence, sexual assault, and stalking
- RCW 42.23.070(4) Municipal officer disclosure of confidential information prohibited
- RCW 42.41.030(7) Identity of local government whistleblower
- RCW 42.41.045 Non-disclosure of protected information (whistleblower)
- RCW 43.43.830 -.840 Background Checks
- RCW 48.62.101 Local government insurance transactions
- Ch. 49.17 RCW Washington Industrial Safety and Health Act
- RCW 50.13.060 Access to employment security records by local government
- RCW 51.28.070 Worker’s compensation records
- RCW 51.36.060 Physician information on injured workers
- RCW 51.48.040 Inspection of Employer Records by L&I
- RCW 70.24.105 HIV/STD records
- RCW 70.96A.150 Alcohol and drug abuse treatment programs
- RCW 71.05.390 Mental health records.
- RCW 74.20.280 Child support enforcement
- RCW 74.34.095 Abuse of vulnerable adults
- RCW 82.32.330 Disclosure of tax information
- 42 USC 290dd-2 Confidentiality of Substance Abuse Records
- 42 USC Sec. 12101 ET. Seq. Americans with Disabilities Act
- 29 USC Sec 657 et seq. Occupational Safety and Health Act

Most of the Federal or State agencies that administer the above acts have adopted regulations to implement the acts. The regulations must be reviewed together with the acts when reviewing record requests.

Board of Fire Commissioners
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 Revised:
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