Public Records Requests

A. Intent of Act
The California Legislature enacted the California Public Records Act recognizing that every person in the state has a fundamental and necessary right to access information concerning the conduct of the public's business. (Government Code Section 6250)

B. Definitions
What is a “public record”?
A public record includes any writing containing information relating to the conduct of the public’s business that is prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Government Code Section 6252(d))
- Complying with a public record request does not require compiling or building new writings from data, but rather to provide information that already exists. Electronic mail (e-mail), which is saved by the system, or printed out, is available for inspection.

How is a public record different from a subpoena?
Subpoenas that request production of documents (subpoena duces tecum) are not handled as a records request under the Public Records Act. A “subpoena” is a written order issued by a court of law requesting that relevant documents be submitted in a judicial proceeding by the entity specified in the order. Subpoenas are subject to the applicable state code sections and the local court rules. Please see the contact list at the end of this document for those individuals who should receive subpoenas and if you require additional assistance in this matter.

What is a “writing”?
A “writing” is defined as handwriting, typewriting, printing, photocopying, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents. (Government Code Section 6252(e))

Who is a “member of the public”?
A “member of the public” means any person, except when a person acts as a member, agent, officer or employee of a federal, state or local agency acting within the scope of his or her membership, agency, office, or employment with these organizations. (Government Code Section 6252(f))

What public records are available for inspection?
Government Code Sections 6253-6270 designate broad categories of records that are subject to public disclosure, as well as those records prohibited from public disclosure. Any public record that does not fall within a statutory exception to the Act shall be subject to public disclosure.

Some relevant Exceptions: Government Code 6254
Preliminary drafts, personal or informal notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.
- Records pertaining to pending litigation or written opinions or communications from the Legal Services Office to LACOE staff.
- Personnel, medical or similar files, disclosure of which would be an unwarranted invasion of personal privacy.
- Information which identifies individual pupils, in compliance with privacy provisions (See Education Code Sections 49060-49073).
- Trade secrets, patented, copyrighted or trademarked materials, or other similar proprietary information submitted to LACOE for a limited purpose only if the individual or agency submitting the document notes the materials as such.
* Be aware that disclosure of exempted information by the agency may be deemed a waiver of the exemption for that particular document that the agency discloses.

C. Procedures
1. It is preferable that public records requests be made in writing. Records that are maintained by a division are for the purpose of immediate inspection, i.e., bid openings.
   - Requests should be as specific as possible in order to help meet the request.
   - Staff shall not question a requester’s motivation for making the records request. However, staff may assist the requester in focusing his/her request.

2. A copy of the written records request must be sent immediately upon receipt to the Communications Department to be entered into a request log and also ensure proper handling of the request by the division or
by Communications. (The division or Communications may also consult with the Legal Services Office to determine the legality and scope of a request.)

3. LACOE must respond to public records requests within ten (10) calendar days of LACOE’s receipt of the request. Such response shall include the determination by the agency of whether to provide the records or deny access and the reasons for the decision. (Government Code Sections 6256)

- If “unusual circumstances” exist, such that staff may require more than ten (10) calendar days to respond, staff must immediately inform the requester in writing of the need for an extension. “Unusual circumstances” are defined as the following under Government Code 6256.1:
  1. Records requested are in different locations other than the division processing the request; records requested require examination and collection of a voluminous amount of documents; or the need for consultation with another agency; (1) having substantial interest in the determination of the request or (2) having two or more of the components of the request include substantial subject matter interests of the agency.
  2. The letter informing a requester of the need for an extension must contain the reasons for the extension and the date in which a determination is expected to be sent to the requester, unless the requester agrees to a specific date, in writing, exceeding ten (10) calendar days.

4. A request for an extension shall not specify a date of response more than ten (10) business days.

5. Records are available for physical inspection by the requester in the appropriate division office or in Communications during regular business hours. Documents are not to leave the LACOE premises. Communications or the appropriate division will provide LACOE personnel to be present during the inspection of records in order to prevent from alteration, loss, or destruction of the records.

6. If the requester wants copies of the records, he/she may be charged a fee. The fee amount charged shall recover only the cost of duplication. Any staff time required to make the materials available or copied may not be charged to the individual making the request.

- Our Reprographics department has a cost recovery rate of 15 cents per side, for an 8.5"x11" or 8.5"x14 "page. An 11"x17" copy is 30 cents per side, per page. Checks are preferred and should be made out to the Los Angeles County Office of Education. Payment must be made prior to the receipt of copied materials.

7. Faxing a reasonable number of pages of a document is not required but may be done as a courtesy to the requester.

D. Considerations
- All staff should understand the intent of the Public Records Act and the spirit of cooperation involved in responding to these requests.
- Awareness of these requirements should also provide direction in the preparation and filing of any documents.
- Staff should consider the interests of individual privacy in providing public records; however, such considerations must comport with the provisions of the Act and any other relevant laws.
- Staff should not attempt to substitute their own independent discretion to determine what documents the requester should have.

E. Trademark or Proprietary Issues
Staff should inform any vendors or contractors that information they provide to LACOE may be subject to the Public Records Act. As such, it is recommended that a vendor or contractor prior to submitting information to LACOE staff designate an item as a "trademark secret" or "proprietary" to ensure its confidentiality. Reasonable guidelines cover what may be deemed as trademark or proprietary in nature. Currently, the Public Records Act is not an absolute defense to trademark or copyright infringement.

When in doubt, staff should seek the advice and assistance of either the Communications Department or the Legal Services Office in responding to and handling a public records request. For additional information, you may contact the LACOE Communications Department at 562-922-6360; fax 562-803-6246.

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