

## **ACCESS TO PUBLIC RECORDS**

The Appleton Area School District Board of Education shall allow persons to have access to school district records in accordance with this policy and implementing procedures, and in accordance with State law.

The Chief Financial Officer is designated as the legal custodian of records for the Appleton Area School District. The legal custodian shall safely keep and preserve records of each authority and shall have full legal power to render decisions and carry out duties related to those public records maintained by any school district authority. The legal custodian may deny access to records only in accordance with State law. The legal custodian is authorized and encouraged to consult with the District's legal counsel in determining whether to deny access to a record in whole or in part.

Public records may be inspected, copied, and/or abstracted at any time during established District office hours; however, the district will not create new records for any person, including any board member, by abstracting or compiling information from existing records, except by a decision of the board. The legal custodian may establish fees in accordance with applicable law. A list of such fees shall be available at the district office.

A public records notice shall be displayed in designated locations throughout the district and procedures shall be developed to implement this policy.

**Cross References:** 823-Rule, Access to Public Records Procedures

**Legal References:** Wisconsin State Statutes Chapter 19 (Subchapter II), 16.61(7),  
118.125, 120.13(28), 120.44  
Wisconsin Records Retention Schedule for School Districts

**Adoption Date:** April 11, 2011

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## ACCESS TO PUBLIC RECORDS

### Procedures

#### A. DEFINITIONS

1. "Authority" means any of the following having custody of a record:
  - a. The Appleton Area School District School Board (including its officers, all Board committees, or other authorities created by the Board)
  - b. Superintendent of Schools
  - c. Those designated by the Superintendent of Schools
  
2. "Legal custodian" means the Superintendent of Schools and the Superintendent's designee or any person or position designated under 1(a) above or otherwise designated by law to carry out responsibilities under Board policy and the Wisconsin Public Records Law. In the Appleton Area School District, the Chief Financial Officer is the Legal Custodian.
  
3. "Local Public Offices" means those positions, which constitute "local public offices" under the Public Records Law. The statutes define the term "local public office" to include, among other positions, the following:
  - a. An elective office of a local governmental unit.
  - b. An appointive office or position of a local governmental unit in which an individual serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.
  - c. An appointive office or position of a local government which is filled by the governing body of the local government or the executive or administrative head of the local government and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial action, or a position filled by an independent contractor.
  - d. Any appointive office or position of a local governmental unit in which an individual serves as the head of a department, agency, or division of the local governmental unit, but does not include any office or position filled by a municipal employee, as defined in [section 111.70\(1\)\(i\)](#) of the state statutes.

Individual board members, the Superintendent, licensed district business managers, and school principals all hold positions that are almost certainly properly classified as "local public offices." Additional administrative, managerial, and supervisory positions within some school districts may also need to be identified as local public offices. Generally, the larger the school district, the more positions that are likely to exist that should be identified as local public offices.

## **823-Rule (cont.)**

The primary significance of determining that a particular position qualifies as a local public office under the Public Records Law is that the individual holding the position will have different rights in regard to records of which they are a record subject, as compared to the rights of other district employees who do not hold a "local public office." For example, while the standard performance evaluation of the typical classroom teacher or school custodian is statutorily protected from disclosure in response to a third party's public records request, there is no such "automatic" protection from disclosure in the event a third party requests a copy of the performance evaluation of an individual who holds a local public office.

4. "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by the authority. "Record" includes, but is not limited to: handwritten, typed or printed pages, maps, charts, photographs, recordings, emails, computer printouts, and archived social media posts and their responses on approved channels.

"Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relationship to his/her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

5. "Requester" means any person who requests inspection or copies of a record.

### **B. CUSTODY AND DELIVERY OF OFFICIAL PROPERTY**

1. Except as provided under Section H (following), each officer and employee of the school district shall safely keep and preserve all records received from his/her predecessor or other persons and required by law to be filed, deposited, or kept in his/her office, or which are in the lawful possession or control of which he/she or they may be lawfully entitled as such officer or employee.
2. Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his/her successor all records then in his/her custody and the successor shall receipt therefore to the officer or employee, who shall file said receipt with the Board Clerk. If a vacancy occurs before a successor is selected or qualified, such records shall be delivered to and receipted for by the Board Clerk, or the Clerk's designee, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

### **C. LEGAL CUSTODIANS**

1. On behalf of any school district authority as identified in A(1) above, the Chief Financial Officer, the Superintendent's designee, is designated as the legal custodian of records for the Appleton Area School District Board of Education.

## **823-Rule (cont.)**

2. The Superintendent's designee, the Chief Financial Officer, has full legal power to render decisions and carry out the duties of the authorities identified in A(1) above. The designation of a legal custodian does not affect the powers and duties of an authority under the Wisconsin Public Records Law.

### **D. PUBLIC RECORDS NOTICES**

The Superintendent/designee shall inform any authority identified in A(1) above about the notice requirements in section 19.33(4) and section 19.34(1) of the State Statutes and shall assist each identified authority in meeting the authority's obligations under those statutes.

### **E. PUBLIC ACCESS TO RECORDS: FEES**

1. Except as provided in Section G below, any person has a right to inspect a record and to make or receive a copy of any record as provided in section 19.35(1) of the State Statutes.
2. Records will be available for inspection and copying during all posted regular office hours.
3. A requester shall be permitted to use facilities comparable to those available to School District employees to inspect, copy, or abstract a record.
4. The legal custodian may require supervision of the requester during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
5. A requester shall be charged a fee for the cost of copying and locating records as follows:
  - a. The fee for photocopying shall be \$0.0135 per page for a black and white copy and \$0.0632 per page for a color copy.
  - b. If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged, including school district labor.
  - c. The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts, and audio or videotapes shall be charged, including school district labor.
  - d. If mailing or shipping is necessary, the actual cost thereof shall also be charged.
  - e. There shall be no charge for locating a record unless the actual cost therefore exceeds \$50.00, in which case the entire actual cost shall be determined by the legal custodian and billed to the requester. The actual cost will be calculated using the Wisconsin Department of Justice accepted rate of \$22.54 per hour. In some instances, an employee with special skills may be necessary to conduct a search and a higher hourly rate may be assessed.
  - f. The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds \$5.00.

## **823-Rule (cont.)**

- g. Elected officials and employees of the school district shall not be required to pay for public records they may reasonably require for the proper performance of their official duties unless the fee for such records exceeds \$5.00. The fee can be waived by a majority vote of the Board.
- h. The legal custodian may provide copies of a record without charge or at a reduced charge where he/she determines that waiver or reduction of the fee is in the public interest.

### **F. ACCESS PROCEDURES**

1. A request to inspect or copy a record shall be made to the legal custodian (Chief Financial Officer). The request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. No request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. However, if the record is kept at a private residence or if security reasons or federal law so dictate, identification may be required. Mail requests may not be denied unless a fee prepayment is required.
2. The legal custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's denial.
3. A request for a record may be denied as provided in Section G below. Oral requests may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for the denial. Written denials must include a statement informing the requester that the denial may be reviewed by a court by mandamus under section 19.37(1) of the State Statutes, or upon application to the attorney general or a district attorney.

### **G. LIMITATIONS ON THE RIGHT TO ACCESS**

1. As provided by section 19.36 of the State Statutes, the following records are exempt from disclosure under these procedures:
  - a. Records specifically exempted from disclosure by State or federal law or authorized to be exempted from disclosure by State law. Student records are exempted as provided by section 118.125 of the State Statutes.
  - b. Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the State.
  - c. Computer programs, although material used as input for a program or the material produced as a product of a program is subject to inspection.
  - d. A record or any portion of a record containing information qualifying as a common law trade secret.

## **823-Rule (cont.)**

- e. Additionally, there may exist other documents that may be exempt by law including, but not limited to, those documents relating to the subjects listed as exemptions from the open meeting law under section 19.85 of the State Statutes. Should there be a question as to whether the record is public or not, the legal custodian should contact the district's legal counsel.
2. If a record contains information that may be made public and information that may not be made public, the authority having custody of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release.
3. A legal custodian may deny access to a record, in whole or in part, only if he/she determines that the harm to the public through disclosure of the record outweighs the public benefit of access to the record. The legal custodian is authorized and encouraged to consult with the district's legal counsel in making such determinations. The legal custodian shall follow the procedures in F(3) above and in section 19.35(4) of the State Statutes when the access to a record in whole or in part, is denied.

### **H. DESTRUCTION OF RECORDS**

1. All school district records shall be kept for a period of time specified in the records retention schedule adopted by the Board and approved by the Public Records and Forms Board. This section does not apply to student records under section 118.125 of the State Statutes.
2. Any taped recording of a meeting of a governmental body in section 19.82(1) and (2) of the State Statutes, may be destroyed no sooner than 90 days after the minutes of the meeting have been approved and published if the purpose of the recording was to make minutes of the meeting.
3. Prior to destruction of any records, the State Historical Society shall be notified at least 60 days in advance to determine if historical interest justifies preservation of such records. The State Historical Society may, upon application, waive this notice.

### **I. PRESERVATION OF RECORDS BY MICROFILM**

The legal custodian may, subject to Board resolution, keep and preserve public records in his/her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in section 16.61(7) of the State Statutes, and shall be considered original records for all purposes. Such records shall be preserved along with other files of the school district and shall be open to public inspection and copying according to the provisions of State law and these procedures.

## **823-Rule (cont.)**

**Cross References:** 347, Student Records  
347-Rule, Procedures for the Maintenance and Confidentiality of Student Records  
347.1 and 347.1-Rule, Maintenance of Pupil Health Care Records  
526, Records Retention Schedule (Personnel Records)  
682.1 Records Retention Schedule (Finance Records)  
823, Access to Public Records

**Legal References:** Wisconsin State Statutes Chapter 19 (Subchapter II), 16.61(7), 118.125, 120.13(28), 120.44  
Wisconsin Records Retention Schedule for School Districts

**Adoption Date:** **April 11, 2011**

**Amended Date:** **July 23, 2012, March 12, 2018 and February 10, 2020**

**APPLETON AREA SCHOOL DISTRICT**

**WISCONSIN OPEN RECORDS LAW NOTICE**

Section 19.34(3), Wis. Stats., requires the Appleton Area School District to adopt, prominently display, and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records and the costs thereof. Section 19.34(1), Wis. Stats., also requires the district separately identify each position in the district that constitutes a local public office.

Notice is hereby provided of the following information required by the Wisconsin Open Records Law:

1. **Description of the District:** The Appleton Area School District is a Wisconsin public school district providing instruction to students in grades pre-K-12. The District is comprised of three (3) high schools, three (3) middle schools, fifteen (15) elementary schools, fourteen (14) charter/magnet schools, and five (5) alternative programs. The District is governed by a school board made up of seven (7) members.
2. **Legal Custodian:** Greg Hartjes, Chief Financial Officer
3. **Means of Requesting Records:** The public may seek access to records and/or request copies of records in the District's custody in person between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the District Offices located at 131 E. Washington Street, Suite 1A, Appleton, Wisconsin. In addition, the public may seek access to records and/or request copies of records in the District's custody by writing to the Chief Financial Officer at 131 E. Washington Street, Suite 1A, Appleton, WI 54911 or by email to [hartjesgreg@asds.k12.wi.us](mailto:hartjesgreg@asds.k12.wi.us).
4. **Costs of Obtaining Records:** The District will impose a fee of \$0.0135 per page for a black and white copy and \$0.0632 per page for a color copy upon any individual requesting records from the District as provided for in §19.35(3)(a)-(e), Wis. Stats. There may be additional fees for labor costs associated with photography and photography reproduction, computer programming, transcription, location, contractor costs, mailing/shipping, etc. The District may require prepayment from any individual requesting records from the District if the total amount exceeds \$5.00.
5. **Local Public Offices:** The District has deemed the following positions in the District as "local public offices" as defined by §19.32(1dm), Wis. Stats.:
  - a. Superintendent of Schools
  - b. Chief Financial Officer
  - c. Assistant Superintendent/School Services
  - d. Assistant Superintendent/Student Services
  - e. Chief Human Resources Officer
  - f. Assistant Superintendent Assessment, Curriculum and Instruction (ACI)
  - g. ACI Directors and Coordinators
  - h. Special Education Associate Directors
  - i. School Principals