

BP 3300 PUBLIC RECORDS REQUESTS AND SUBPOENAS

References:

Code of Civil Procedure, Section 2020.230(b)
Education Code, Section 76243
Evidence Code, Section 1563
Government Code, Section 6250 et seq. (Public Records Act)
Government Code, Section 68093
5 United States Code, Section 552 (Freedom of Information Act)

The District shall release information, including information regarding employees and students of the District, only when release for such information is pursuant to a subpoena, the Public Records Act, the Freedom of Information Act, other law or regulation or written consent of the individual whose records are being sought.

The Chancellor shall establish procedures for dealing with subpoenas, requests for and access to, District records, including the costs of providing the records.

Date Adopted: May 19, 2009
(Replaces RCCD Policies 7045 and 7046)

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I. PUBLIC RECORDS REQUESTS

Members of the public may request to inspect or copy public records. A request by a member of the public may be delivered by mail to the Office of the General Counsel, 4800 Magnolia Ave., Riverside, CA 92506, or served in person at the Office of General Counsel, 1533 Spruce St., Ste. 314, Riverside, CA 92507. Within ten days, pursuant to the Public Information Act, the General Counsel's Office will determine whether or not the records can be produced and will communicate the determination to the member of the public requesting the record(s). At that same time, the requesting party will also be advised as to the approximate date when the records will be ready. If a request is made under the Freedom of Information Act, the District has twenty days to respond to the requestor.

Any request shall identify, with reasonable specificity, the records that are sought. If additional information is needed, the General Counsel's Office may request it be provided in writing.

Any request to inspect records shall be made sufficiently in advance of the date of inspection to allow staff members' time to assemble the records and identify any records that may be exempt from disclosure.

Records that are exempt from disclosure under the Public Records Act or any other provision of law may not be inspected or copied by members of the public. Social security numbers must be redacted from records before they are disclosed to the public.

Members of the public shall be assisted in identifying records or information that may respond to their request. Assistance that will be provided includes: the information technology and physical location in which the records exist; practical suggestions for

overcoming denial of access to the records or information; and the estimated date and time when the records will be made available.

A. Exemptions

The Public Records Act presumes that all records of a public agency are public, unless specifically exempted by law.

The most common exemptions for community colleges include:

1. Student records. FERPA regulations will be followed with regard to the release of student records.
2. Preliminary drafts, 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 the records clearly outweighs the public interest in disclosure.
3. Records pertaining to pending litigation ...or to claims...until the pending litigation or claim has been finally adjudicated or otherwise settled.
4. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
5. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination [except for standardized tests provided for by Education Code Section 99150 et seq.].
6. The contents of real estate appraisals or engineering or feasibility estimates and evaluations...relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained.
7. Internet posting of home address or telephone numbers of locally elected officials.
8. Home addresses and home telephone numbers of employees of a school District or county office of education (other than to an agent or family member of the employee, to an officer of another school District when necessary, to an employee organization, or to an agency or employee of a health benefit plan).
9. Records regarding alternative investments (i.e. an investment in a private equity fund, venture fund, hedge fund, or absolute return fund; limited partnership, limited liability company, or similar legal structure) involving public investment funds, unless already publicly released by the keeper of the information.

10. Information security records, if disclosure of that record would reveal vulnerabilities to, or otherwise increase, the potential for an attack on the District's information technology system.

B. Fees

The fees for preparing copies of information requested will be for the direct costs of duplication, which is currently \$0.25, per page.

Exempt from this fee are school districts, city, county, state and federal agencies.

II. SUBPOENAS

All subpoenas for records are to be served at:

Riverside Community College District
Office of the General Counsel
1533 Spruce St., Ste. 314
Riverside, CA 92507.

That office will determine which department in the District contains the records sought and will forward a copy of the subpoena to the proper department so that the records requested can be gathered. The department gathering records will then forward those records to the General Counsel's Office for further processing in accordance with the subpoena.

A. Subpoena or Other Requests for Appearances in Court or Other Legal Proceedings

For a personal appearance at a hearing, trial or other legal proceeding, for a matter involving the District, employees should immediately notify their supervisor, as well as the General Counsel's Office. The individual will be given instructions by the General Counsel's Office on how to proceed. If an appearance is necessary, the employee shall be granted paid leave for whatever time such appearance is necessary.

For a personal appearance at a hearing, trial or other legal proceeding NOT involving the District, employees, employees should immediately notify their supervisor and upon request, will be granted vacation, unpaid leave or personal necessity leave (up to the maximum allowed) to make the appearance. Such request shall be submitted as far in advance of the appearance date as possible.

Employees who appear as litigants/complainants/plaintiffs against the District in any court or other legal proceeding will be granted vacation or unpaid leave to attend.

B. Fees

If a subpoena for records (subpoena duces tecum "SDT") is served on the District requiring the personal appearance in court by an employee, with the records, the District will charge \$35.00 per day for the appearance, and mileage at the rate of \$.20/mile.

If the SDT is for the production of records only, the District will charge the statutory fee of \$15.00 and the following reasonable costs, pursuant to statute:

\$.10 per page for copying; clerical costs for locating and making the records available, not to exceed \$24 per hour (\$6 per quarter hour), per person; actual postage costs; and, any actual fees charged by an outside storage company, or other third party, to retrieve the documents in question.

C. Fees for Requests for Duplication of Miscellaneous Printed Material and Audio/Video Recordings

- \$.35 per page for copies of existing material;
- \$7.50 per video tape and 22.50 for duplication*;
- \$2.50 per audio tape and \$17.50 for duplication*;
- \$2.00 per disc and \$17.00 for duplication*;
- \$5.00 per disc and \$18.00 for duplication*;
- \$\$12.00 per Mini DV tape and \$27.00 for duplication*;
- \$1.00 per DVD/CD black armory case;
- \$1.50 per armory case printed cover;
- \$1.50 per armory case inside sleeve;
- \$1.50 per color inkjet printed DVD/CD face

*Duplication includes stock and labor

Office of Primary Responsibility: General Counsel

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(Replaces RCCD Regulations 7045 and 7046)