

PUBLIC RECORDS – RETENTION, RELEASE, AND DISPOSITION

Policy Code: **5070/7350**

¹The board is committed to providing access to public records and public information. All employees shall comply with the public records law and this policy.

A. PUBLIC RECORD DEFINED

Any record, in any form, that is made or received by the board or its employees in connection with the transaction of public business is a public record that must be made available to the public, unless such record is protected from disclosure by federal or state law or is otherwise exempted from the public records law, G.S. 132-1 through 132-9.

Though the school improvement plan is a public record, the school safety components of the plan are not public records subject to public records law.² Schematic diagrams, as described in G.S. 115C-105.53 and -105.54, and emergency response information, as described in G.S. 115C-47(40) and -105.54, are also not considered public records subject to public records law.

The official records of students are not public records subject to inspection and examination. (For additional information regarding the release of information about students, see policy 4700, Student Records.) Further, any written material containing the identifiable scores of individual students on any test taken pursuant to the state testing program described in Chapter 115C, Article 10A of the North Carolina General Statutes is not a public record.³ Any test that is developed, adopted, or provided as part of the state testing program is not a public record until the State Board of Education designates that the test is released.⁴

Information in school system employee personnel files is protected from disclosure in accordance with G.S. 115C-319, except that the following employee information is public record.

1. Name.
2. Age.
3. The date of original employment or appointment.

¹ This policy references many statutory duties.

² See G.S. 115C-105.27(a2).

³ See G.S. 115C-174.13(b)

⁴ See G.S. 115C-174.13(a)

4. The terms of any past or current contract by which the employee is employed, whether written or oral, to the extent that the board has the written contract or a record of the oral contract in its possession.
5. Current position.
6. Title.
7. Current salary (includes pay, benefits, incentives, bonuses, deferred compensation, and all other forms of compensation paid to the employee).
8. The date and amount of each increase or decrease in salary with the board.
9. The date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the board.
10. The date and general description of the reasons for each promotion with the board.
11. The date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the board. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the board setting forth the specific acts or omissions that are the basis of the dismissal.
12. The office or station to which the employee is currently assigned.

The name of a participant in the North Carolina Address Confidentiality Program is not a public record and must be redacted from any records released.⁵ As necessary, school personnel may combine public and confidential records to meet the business needs of the system. However, if a record contains confidential information as well as public information, school officials must provide the requested public record with the confidential information removed or redacted.

B. DESIGNATION OF PUBLIC RECORDS OFFICER

The superintendent shall designate a public records officer or otherwise ensure that the duties of a public records officer are met.⁶

1. Duties of the Public Records Officer

The duties of the public records officer include the following:

- a. determining whether records are public or confidential by law, with assistance from the local board attorney as necessary;

⁵ G.S. 115C-320.

⁶ A centralized function is not required but may help ensure that all statutory requirements are met.

- b. determining the most cost-effective means of storing and retrieving public records that include confidential information;
- c. providing training, consultation, and guidelines to school officials who respond to or are otherwise involved in public records requests;
- d. determining the actual cost of providing copies of public records in various forms, such as paper or electronic media, in which the school system is capable of providing the records;⁷
- e. determining the cost of a request for copies of public records when a special service charge is applicable or when the school system is voluntarily creating or compiling a record as a service to the requester;⁸ and
- f. reviewing appeals of any denial of a request for public records.

2. Other Duties

Other duties to be performed by the public records officer, a designated electronic records officer, or other employees as determined by the superintendent include the following:⁹

- a. reviewing all electronic data processing systems being considered for lease or purchase to ensure that they will not impede the school system's ability to permit public inspection and examination of records;¹⁰
- b. ensuring that databases are indexed as required by law; and
- c. conducting an inventory of electronic databases maintained by the school system on a regular basis.¹¹

C. REQUESTS FOR PUBLIC RECORDS

All requests for examining or obtaining copies of public records should be in writing. This policy, administrative guidelines, information on the actual cost of producing public records, information on how to reach the public records officer, information about how to appeal a denial of a public records request, and information regarding any computer database indexes must be made available to individuals requesting public records.

⁷ School systems are statutorily required to determine the actual cost of producing records.

⁸ Under G.S. 132-6.2, these are the two circumstances in which the amount charged may exceed the "actual cost."

⁹ The Division of Archives and History requests that all government agencies identify an electronic records officer.

¹⁰ This provision is statutorily required.

¹¹ This provision is not statutorily required but is recommended by the Division of Archives and History.

Public records must be released in accordance with the law. Any denial of a public records request must be made in writing and must include the basis for the denial.¹² The superintendent or designee may issue additional guidelines consistent with this policy to further clarify the process for requesting public records.

D. FEES FOR COPIES OF PUBLIC RECORDS

Persons requesting copies of public records will be charged any applicable fees as determined by the public records officer (see subsections B.1.d and B.1.e above). The school system shall not charge any fees for separating confidential information that is commingled with public records.¹³

E. ELECTRONIC MAIL LISTS

A school employee may be authorized by the superintendent or designee to maintain an electronic mail list of individual subscribers. Such a list may be used only: (1) for the purpose for which the subscribers subscribed to it; (2) to notify subscribers of an emergency to public health or public safety; or (3) in the event of deletion of the list, to notify subscribers of the existence of any similar lists. Although such electronic mail lists of individual subscribers shall be available for public inspection in either printed or electronic format,¹⁴ school officials shall not provide anyone with copies of such lists.¹⁵

F. DESTRUCTION OF PUBLIC RECORDS

School personnel shall comply with the *Records Retention and Disposition Schedule for Local Education Agencies* adopted by the N.C. Department of Natural and Cultural Resources, Division of Archives and History, unless otherwise required by statute, regulation, or other legal authority. The superintendent may establish regulations for the destruction of records in accordance with the approved schedule.

Legal References: Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; G.S. 14-113.8(6); 115C-47(40), -105.27(a2), -105.53, -105.54, -109.3, -174.13, -319 to -321, -402; 132-1 to -9; *Public Database Indexing Guidelines*, N.C. Department of Natural and Cultural Resources (2014), available at <http://archives.ncdcr.gov/For-Government/Digital-Records/Digital-Records-Policies-and-Guidelines#digpres>; *Records Retention and Disposition Schedule for Local Education Agencies*, N.C. Department of Natural and Cultural Resources (1999), available at <http://archives.ncdcr.gov/For-Government/Retention-Schedules/Local-Schedules>; N.C. Attorney General Advisory Opinion, letter to Elizabeth Buford, February 26, 1996, available at <http://www.ncdoj.gov/About-DOJ/Legal-Services/Legal-Opinions/Opinions/Public-Records;-Computer-Database-Index.aspx>

¹² Requests and denials are not statutorily required to be in writing, but a written record should help to clarify issues if a denial is appealed.

¹³ This provision is required by G.S. 132-6(c). See also G.S. 132-1.10(b)(5).

¹⁴ The board may choose to make such lists available in either printed form or electronic form or in both forms.

¹⁵ Notwithstanding the other public records laws, G.S. 132-1.13 does not require the school system to provide copies of such lists; however, the lists must be available for public inspection.

Cross References: North Carolina Address Confidentiality Program (policy 4250/5075/7316), Student Records (policy 4700), Confidentiality of Personal Identifying Information (policy 4705/7825), News Media Relations (policy 5040), Electronically Stored Information Retention (policy 5071/7351), Personnel Files (policy 7820)

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