

Malheur Education Service District

Code: **KBA**
Adopted: 9/20/05
Readopted: 7/15/14
Orig. Code(s): KBA

Public Records**

“Public record” means any information that:

1. Is prepared, owned, used or retained by the ESD;
2. Is related to an activity, transaction or function of the ESD; and
3. Is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the ESD.

Public record does not include messages on voice mail or on other telephone message storage and retrieval systems or spoken communication that is not recorded.

Board meetings and records will be matters of public information subject to such restrictions as are set by federal law or regulation, by state statute or by pertinent court rulings.

The Board’s official minutes, its written policies and its financial record will be available at the superintendent’s office for inspection by any citizen desiring to examine them during hours when the superintendent’s office is open. All such information will be made available to individuals with disabilities in an appropriate format upon request and with appropriate advance notice. Auxiliary aids and services available to ensure equally effective communications to qualified persons with disabilities may include large print, braille, audio recordings, readers, assistance in locating materials or other equally effective accommodations.

The Board supports the right of the people to know about programs and services of their district and will make every effort to disseminate information. No records will be released for inspection by the public or any unauthorized persons either by the superintendent or any other person designated as custodian for ESD records if such disclosure would be contrary to the public interest, as described in state law.

If a copy of a record is requested, the ESD will provide a single certified copy. If a request to inspect a record is made and the public record is maintained in a machine readable or electronic form, the custodian shall provide the record in the form requested, if available. If not available in the form requested, it will be provided in the form the public record is maintained. If a person who is a party to a civil judicial proceeding to which the ESD is a party or who has filed notice under ORS 30.275 (5)(a), asks to inspect or to receive a copy of a public record that the person knows relates to the proceeding or notice, the individual must submit the request in writing to the designated custodian of ESD records and at the same time to the ESD’s attorney.

Employee and volunteer addresses, electronic mail addresses (other than ESD electronic mail addresses assigned by the ESD to ESD employees), social security numbers, dates of birth and telephone numbers

contained in personnel records maintained by the ESD are exempt from public disclosure pursuant to ORS 192.445 and ORS 192.502 (3). Such information may be released only upon the written request of the employee or volunteer or as otherwise provided by law. This exemption does not apply to a substitute teacher, as defined in ORS 342.815, when requested by a professional education association of which the substitute teacher may be a member. ESD electronic mail addresses assigned by the ESD to ESD employees are not exempt. Additionally, the ESD will not disclose the identification badge or card of an employee without the employee's written consent if the badge or card contains the employee's photograph and the badge or card was prepared solely for internal use by the ESD to identify ESD employees. A duplicate of the photograph used on the badge or card shall not be disclosed.

Upon receipt of a request, the ESD will respond as soon as practicable and without unreasonable delay. The response must acknowledge the receipt of the request and one of the following:

1. A statement that the ESD does not possess, or is not the custodian of, the public record.
2. Copies of all requested public records for which the ESD does not claim an exemption from disclosure under ORS 192.410 to 192.505.
3. A statement that the ESD is the custodian of at least some of the requested public records, an estimate of the time the ESD requires before the public records may be inspected or copies of the records will be provided and an estimate of the fees that the requester must pay as a condition of receiving the public records.
4. A statement that the ESD is the custodian of at least some of the requested public records and that an estimate of the time and fees for disclosure of the public records will be provided by the ESD within a reasonable time.
5. A statement that the ESD is uncertain whether the ESD possesses the public record and that the ESD will search for the record and make an appropriate response as soon as practicable.
6. A statement that state or federal law prohibits the ESD from acknowledging whether the record exists or that acknowledging whether the record exists would result in the loss of federal benefits or other sanction. A statement under this paragraph must include a citation to the state or federal law relied upon by the ESD.

The ESD may request additional information or clarification from the requester for the purpose of expediting the ESD's response to the request.

The Board reserves the right to establish a fee schedule which will reasonably reimburse the ESD for the actual cost of making copies of public records for the public. There will be no additional charge for auxiliary aids and services provided for qualified persons with disabilities.

Request for copies of documents shall be in writing and will be presented to the superintendent.

The ESD shall retain and maintain its public records in accordance with OAR 166, Division 400.

END OF POLICY

Legal Reference(s):

[ORS Chapter 192](#)

[OAR 137-004-0800\(1\)](#)

[OAR 166-400](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).
OR. DEP'T OF JUSTICE, OR. ATT'Y GENERAL'S PUBLIC RECORD AND MEETINGS MANUAL.