

## BASALT REGIONAL LIBRARY DISTRICT OPEN RECORDS POLICY

### **BOARD POLICY:**

With limited exceptions, all District records are public records, regardless of the form (pages or electronic) unless specifically exempted. Exemptions include some personnel records, real estate appraisals, customer information, communications from the District's Attorney and other privileged information as provided by law.

### **ADMINISTRATIVE POLICY:**

Within the requirements established in the Colorado Open Records Act (C.O.R.A. C.R.S. 24-72-201 et. Seq.), it is hereby the general Board policy that:

- All public records shall be open to inspection by any person at reasonable times.
- The District will respond to a request within three (3) working days. If the District does not have time or space to accommodate the request at the moment, the District may set another time for inspection. If the District denies the request, the denial of the request must be in writing.
- All District records must remain at all times in the custody of the District. Originals shall not be released outside of the Library to anyone not employed by the District.

### **PROCEDURE:**

#### Definitions

"Public Records" include, unless exempted:

- All writings made, maintained or kept by the District, or any District employee.
- Correspondence of Board members (including e-mail) is a public record unless it is a work product, is unrelated to the member's function, is a communication from a constituent who expects it to be confidential by its content, or is otherwise subject to non-disclosure under the Open Records Act C.R.S. 24-72-203 (the "Act").
- "Writings" means all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings include digitally stored data and electronic mail, but does not include computer software.
- "Work Product" means materials which are deliberative or advisory in nature, prepared to help Board members, and communicated to assist the members in reaching a decision within the scope of their authority.

## Application Process

1. A person requesting records ("Applicant") shall fill out a Request for Inspection/Copying of Record and either deliver or e-mail the Request to the Director or the District's Attorney.
2. The applicant should describe the record as specifically as possible in the Request for Inspection/Copying of Record Form.
3. Upon receipt, the Director or the District's Attorney shall determine:
  - a. Who is the custodian of the requested document(s);
  - b. The status of the record (availability, etc.);
  - c. Cost estimate for duplication/production (if appropriate)
4. Within three (3) working days of receipt of the request, the District will inform the Applicant whether and when they may inspect the documents and/or have copies provided pursuant to the cost estimate.
5. If available, the Applicant can then schedule a time for inspection of the documents, agree to pay for the copies/reproduction, or cancel the Request. The Applicant shall pay any cost estimate before the District proceeds with making copies of the records.
6. If the Applicant chooses to inspect the documents and then wishes to have copies made, the costs associated with those copies shall be paid in advance by the Applicant in accordance with the schedule set forth herein.
7. An applicant has the option of obtaining a copy of any audio or video recording of a public meeting by making arrangements for duplication/transcription and paying the associated costs.
8. When responding to open records requests, regardless of whether the record is inspected or copied, the applicable district employee shall complete the Open Record Log.
9. The log should be maintained for a period of two (2) years + current year. The original Request is to be maintained by the District in a designated file.

## Inspection, Copying or Photographing of Public Records

The Act states:

- (1) All public records shall be open for inspection by any person at reasonable times, unless otherwise provided by the Act or other law.
- (2) If the public record requested is not in the custody or control of the person to whom application is made, such person shall notify the applicant of this fact. In such notification he shall state the reason for the absence of the records from his custody, their location, and what person then has custody of the record.

- (3) If the public record requested is in the custody or control of the person to whom application is made but is in active use or in storage and unavailable at the time an applicant asks to examine them, such person shall notify the applicant of this fact. If requested by the applicant, the custodian shall set a date and hour within three (3) working days at which time the records will be available. The time period may be extended up to seven (7) days if there are extenuating circumstances. However, responding to records requests does not take priority over previously scheduled District work obligations.

### Grounds for Denial

Section 204 of the Act provides:

- (1) The custodian of any public record shall allow any person the right of inspection of such records EXCEPT on one or more of the following grounds:
  - (a) Such inspection would be contrary to any state statute
  - (b) Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.
  - (c) Such inspection is prohibited by rules promulgated by the Supreme Court or by the order of any court.
- (2) The custodian of any record SHALL NOT give out or show the following records to anyone except for the person in interest:
  - (a) Medical, psychological, sociological and scholastic achievement data.
  - (b) Personnel files, except that such files are available to the person in interest as well as the person's supervisor. Employment contracts, applications, performance ratings, salary amounts and benefits received are generally available to the general public.
  - (c) Trade secrets, privileged information, confidential, commercial, financial, geological or geophysical data.
  - (d) Library material contributed by private persons who have requested such material not be disclosed
  - (e) Addresses and phone numbers of patrons.
  - (f) Library user records.
  - (g) Addresses, telephone numbers and personal financial information of users of public facilities or recreational or cultural services, except that such information may be released to a peace officer when related to the peace officer's authority and duties.
  - (h) Sexual harassment complaints or investigations.
  - (i) Applications for an executive position, unless the person is a finalist for the position.
  - (j) Other documents mandated by law for non-disclosure.

- (3) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing or the issuance of permits, shall be available to the person in interest.

### Appeal Process

- (1) If the custodian denies access, the applicant may:
  - (a) Request a written statement of the grounds for the denial;
  - (b) Apply to District Court for a hearing where the custodian must show cause for denying inspection. If the applicant obtains the records through the court proceedings, the court can award attorney's fees to the applicant.
- (2) Any questions concerning the applicability of the Act or of the requirements of this policy will be directed to the District's Attorney.

### Fees

The District will not bill or invoice for copies or other services in conjunction with Open Records Requests. Charges must be paid at the time of service.

### Photocopies

- Black and white copies \$0.20 per page
- Color copies \$0.50 per page

### Research and Retrieval Costs

- The charge for research and retrieval of material is \$25.00/hour, billable in 30 minute increments.

### Copies of Records in Other Formats

- The charge for verbatim transcript will be the actual cost to the District in obtaining the transcript.
- The charge for providing copies of records on media types other than paper is \$15 per electronic storage device, plus the cost of employee time and other incidentals including postage
- The charge for photographs is actual cost of photo reproduction plus cost of employee time and other incidentals including postage.
- The charge for extraction of e-mail data is \$65/hour, billable in 30 minute increments.

The Open Records Act allows the District to charge per page when copies are requested and provided, or the actual cost of preparation if the cost is greater. The

actual cost may include, but is not limited to, the hourly rate paid to the employee conducting the research, cost of the physical medium of the document (e.g. tape or diskette) and the cost of retrieving the document from off-site storage for inspection.

Revised and Adopted: August 20, 2018

