

MODEL POLICY #36

PUBLIC RECORDS OFFICER, REQUESTS, & TRACKING — WISCONSIN

Why Adopt This Policy?

By adopting this policy, the school board commits to openness, accountability, and the public's right to know how their school is run. It strengthens public trust and supports community involvement—both of which are vital to a healthy school environment. Adopting this Public Records Officer, Request, and Tracking policy ensure that public records are accessible in a clear, consistent, and timely manner in accordance with state law.

Policy

Establishment of Records Custodian

At the start of each school year, the school board shall appoint at least one Public Records Officer (also referred to the Records Custodian) who will be responsible for:

- Acknowledging and responding to open record requests;
- Fulfilling or delegating who will fulfill the requests;
- Keeping a record of all requests and their details;
- Designating a backup contact if absent for more than three (3) school days.

The records custodian's name and contact information shall be displayed prominently on the district's website.

Responding to Open Record Requests

The Public Records Officer must respond to each request within fourteen (14) days by doing one of the following:

- Providing the requested records;
- Giving a specific date for when the records will be provided (this date must be within sixty (60) days of the request); or
- Denying the request (with a written explanation and legal basis).

The records shall be fulfilled in the format that the requester asks for. If the requester does not specify the format of the records requested, it shall be presumed that the format desired is electronic.

Location and Copying Fees for Open Record Requests

Wisconsin law permits location and copying fees under certain circumstances.

The school district may only charge a requester for location fees if the fees exceed \$150, and only if the records are provided in full within fourteen (14) days of the initial request being submitted.

While the school board shall designate a specific officer to handle record requests, any location fee must be based on the salary of the lowest-paid employee capable of locating the records, in accordance with state law, which may not be the salary of the public record officer.

If the total of the location fees is less than \$150, the requester will be charged nothing (\$0). If the records take longer than 14 days from the day the request is received to produce, and the requester was required to pay the location fees up front, the requester shall be reimbursed the location cost.

If the records requested must be reproduced, photographed, or mailed, the school may impose a fee for "actual, necessary and direct" cost.

Tracking Open Record Requests

The Public Records Officer must maintain and publish a monthly report on the school's website that includes:

- Name of the requester;
- Description of requested records;
- Date the request was made;
- Date the request was acknowledged by the Public Records Officer;
- Date the request was fulfilled or denied.

This report shall also include:

- A summary of request response times;
- The number of calendar days each request took to fulfill;
- The mean and median fulfillment times for the month.

If the same record or set of records has been requested three (3) or more times, those records shall be included with the publicly available monthly report on the website. Future requests for those records can be satisfied by directing the requester to the respective report.



Legal Analysis

Schools “shall designate in writing” a “legal custodian to fulfill its duties.” Wis. Stat. § 19.33(4). Each authority must adopt, “for the guidance of the public,” a notice “containing a description of the established times and places” at which the public may “obtain information and access records in its custody, make requests for records, or obtain copies of records, and the costs thereof.” Wis. Stat. § 19.34(1).

Open records law “shall be construed in every instance with the presumption of complete public access consistent with the conduct of governmental business. The denial of access generally is contrary to the public interest and only in exceptional cases can access be denied.” Wis. Stat. § 19.31. The school must respond to and fill open record requests “as soon as practicable and without delay.” Wis. Stat. § 19.35(4)(a). If a request for open records is being denied, it must be done in writing and state what part of the law the school believes entitles it to deny the request. Wis. Stat. § 19.35(4)(a).

Schools can provide copies of records without charge. Wis. Stat. § 19.35(3)(e). However, records custodians may charge requesters a fee for the “actual, necessary and direct” cost of locating records, but only if the total exceeds \$50. Wis. Stat. § 19.35(3)(c). This law was adopted in 1981, and adjusting for inflation this amount would be \$171 in 2025. Additionally, in the 2021-2023 Executive Budget Proposal, Governor Tony Evers suggested increasing the location fee from \$50 to \$100.

Schools may impose a fee for “actual, necessary and direct” cost of reproduction, photographing, or mailing/ shipping a record. Wis. Stat. § 19.35(3)(b)-(d). However, the Wisconsin Department of Justice Office of Open Government public records request fee schedule waives the fee for copying records from one digital format to another for distribution (e.g. email).

Finally, “the rate for an actual, necessary, and direct charge for staff time” must “be based on the pay rate of the [school’s] lowest paid employee capable of performing the task.” Wis. Stat. § 19.35(3)(h)6. The Wisconsin DOJ emphasizes that “even if the lowest paid employee capable of reviewing and locating responsive records within the search result is not actually doing the reviewing and location, authorities should still always utilize the rate of pay of the lowest paid employee capable of reviewing and locating responsive records within the search results. Once responsive records are located within the search results, however, subsequent review and redaction of those responsive records are separate processes for which a requester may not be charged.” See https://www.doj.state.wi.us/sites/default/files/news-media/8.8.18_OOG_Advisory_Fees_0.pdf.



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