

ADMINISTRATIVE PROCEDURE

PUBLIC INFORMATION ACT REQUESTS

1120

Procedure No.

August 11, 2022

Date

- I. **PURPOSE:** To provide procedures related to responding to public information act requests.
- II. **POLICY:** The Prince George’s County Board of Education (“Board of Education”) is committed to compliance with the Maryland Public Information Act (“MPIA” or “Act”), §§ 4-101, *et seq.* of the General Provisions Article of the Maryland Annotated Code. It is the policy of the Board of Education to provide access to public records of Prince George’s County Public Schools (“PGCPS”), if access is permitted by law, by minimizing costs and time delays to applicants. (Board Policy 1120)
- III. **BACKGROUND:** The basic mandate of the MPIA is to enable people to have access to government records, without unnecessary costs or delay. As a custodian of such public records, PGCPS must provide access to qualifying records unless the records fall within one of the exceptions in the Act. By law, any records made or received by PGCPS in connection with the transaction of public business are public records. An otherwise private document that PGCPS staff has included in its files may become a public record, unless covered by one of the recognized exceptions.
- IV. **DEFINITIONS:**
 - A. *Act* – The Maryland Public Information Act, Annotated Code of Maryland, General Provisions Article, Title 4.
 - B. *Applicant* – A person or governmental unit that asks to inspect a public record.
 - C. *Business day* – A day during which the central offices of PGCPS are open for business in accordance with the approved, official school system calendar. A *business day* does not include weekends, or PGCPS holidays.
 - D. *Compliance Board* – The State of Maryland’s Public Information Act Compliance Board.
 - E. *Custodian* – An authorized individual who has physical custody and control of a public record of the school system.
 - F. *General information documents* – Specific public records that the Board of Education has designated that are to be made available to any Applicant immediately upon request, specifically:



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1. official minutes from open meetings of the Board;
 2. written and adopted Board policies;
 3. written and approved administrative procedures of the Chief Executive Officer (“CEO”);
 4. school system calendar;
 5. annual budget;
 6. PGCPS organizational chart;
 7. Board Action Summaries; and
 8. an annually updated roster of PGCPS employees’ names, job titles, current assignment, most recent hire date, and salary.
- G. *Indigent individual* – An individual whose family household income is less than 50% of the median family income for the State of Maryland as reported in the Federal Register.
- H. *Metadata* – Information, generally not visible when an electronic document is printed, describing the history, tracking, or management of the electronic document, including information about data in the electronic document that describes how, when, and by whom the data is collected, created, accessed, or modified and how it is formatted. *Metadata* does not include:
1. a spreadsheet formula;
 2. a database field;
 3. an externally or internally linked file; or
 4. a reference to an external file or hyperlink.
- I. *Official custodian* – An officer or employee of PGCPS who is responsible for keeping a public record, whether or not the officer or employee has physical custody and control of the public record.



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J. *Person in interest* – Means:

1. a person or governmental unit that is the subject of a public record or a designee of the person or governmental unit; or
2. if the person has a legal disability, the parent or legal representative of the person.

K. *Public record* – The original or any copy of any documentary material that:

1. is made or received by the Board of Education or PGCPS employee in connection with the transaction of public business and is in any form, including, but not limited to:
 - a. a card;
 - b. a computerized record or other electronic storage media;
 - c. correspondence, including printed or electronically stored email messages;
 - d. a drawing;
 - e. film or microfilm;
 - f. a form;
 - g. a map;
 - h. a photograph or Photostat;
 - i. an audio and/or video recording; or
 - j. a tape.
2. A *public record* includes a document that lists names, job titles, current assignment, most recent hire date, and salary of any PGCPS employee.

L. *Regular business hours* – 9:00 a.m. to 5:00 p.m. on any business day.



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M. *Standing request* – A request that a specific type or category of public record be produced at regular intervals in the future as the record is created.

V. **PROCEDURES:**

A. Right of Access to Public Records

1. All persons are entitled to have access to the school system’s public records, unless the requested records fall into one of the exceptions provided in the MPIA.
2. If an Applicant requests a general information document, and the document is not available on the PGCPS website, the most recent version will be provided promptly to the Applicant electronically, or the document will be made available for inspection during regular business hours.
3. Other public records will be available for inspection during regular business hours, pursuant to this administrative procedure, upon written request. Inspection of public records will not occur at a time or in a manner that disrupts the normal operations of the school system. Public records will not be made available for inspection if disclosure would be contrary to the public interest or as proscribed by law.
 - a. When a request is received, PGCPS will determine whether the record is already publicly available to the Applicant on the PGCPS website and will advise the Applicant accordingly.
4. Public records shall not be destroyed, discarded or hidden, be they electronic or on paper, so as to avoid compliance with a pending request or in a manner that is contrary to any adopted record retention schedule.
5. PGCPS is not obligated to nor does it honor standing requests.
6. Creation of Records

The Act provides that existing records, not otherwise privileged, confidential or exempted from release, are to be released. In response to a request made under the Act, PGCPS is not required by law to create or compile a new record, report, or document; nor is PGCPS required to perform any research or analysis on existing data.



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B. Requests for Public Records

1. Request for Inspection

If an Applicant requests to inspect a general information document, such request need not be made in writing. All other requests to inspect documents must be made in writing.

2. Requests for Copies

If an Applicant requests a copy of any public record, including a general information document, the Applicant must submit a written request.

3. Requests submitted in writing may be done via email (ogc.mpia@pgcps.org), fax (301.952.6056), or letter to the Office of the General Counsel. Use of a different email address may delay the processing of a request. The Applicant assumes the risk that requests made via email or facsimile might be compromised due to unanticipated technology errors, which might render the email or facsimile transmittal undeliverable.

4. Requests submitted or received after regular business hours will not be considered as received until the next business day. Thus, requests submitted after 5:00 p.m. on a business day, or during a weekend or holiday, are not received until the next business day.

5. Contents of Written Request

- a. A written request must reasonably identify by brief description, but with adequate specificity, the public record sought. If adequate specificity is not provided, PGCPS may follow up with the Applicant for the clarification needed to respond to the request.
- b. Generally, an Applicant is not required to provide a reason for their request, although in certain situations information about the Applicant's identity may be required, such as when the Applicant seeks a fee waiver or if the Applicant is requesting a public record that is only available to a person in interest. The Applicant must provide a valid address where PGCPS may deliver the requested public record.
- c. The Applicant may request that the record be provided in a specific format. While it is ultimately PGCPS's right to select the format of



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disclosure, PGCPS may accede to the Applicant's request and provide the public record in the requested format unless doing so imposes a significant, unrecoverable cost or other burden to PGCPS.

C. Processing Requests

1. Pursuant to State law, PGCPS will:
 - a. Advise the Applicant within 10 business days if PGCPS is not the custodian of the public record that has been requested and, if known, the name of the custodian and the location or possible location of the public record;
 - b. Advise the Applicant that the public record that has been requested does not exist. If PGCPS reaches this determination on initial review of the request, PGCPS will advise the Applicant immediately. If PGCPS reaches this determination after a search for potentially responsive public records, PGCPS will advise the Applicant promptly after the search has been completed and not more than 30 calendar days after receiving the request.
 - c. Advise the requestor within 10 business days of receipt of the request if additional time is needed to respond to the request, the reason for the delay, the amount of additional time that the custodian anticipates will be needed, and an estimate of the range of fees, if any, that may be charged to comply with the request.
2. If the requested public record cannot be produced by the tenth business day, PGCPS will consult with the custodian as to whether any records may be provided in a partial response to the Applicant.
3. PGCPS will promptly ask the Applicant for clarification if the custodian deems it necessary.
4. In most instances, responses to requests for public records will be provided within 30 days of receipt, unless an exemption applies or the Applicant agrees to an extension beyond 30 days.
5. If the public record is in active use, storage, or otherwise not immediately available, PGCPS will notify the Applicant and schedule a date and hour within a reasonable time when the record will be available.



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6. Inspection

- a. With reasonable advance notice and at PGCPS's discretion, an Applicant may inspect any public record that the Applicant is entitled to inspect during regular business hours. Access to the public record will not be provided at a time or in a manner that disrupts the normal operation of the school system. The inspection must be performed in the presence of a school system employee designated by the custodian. The Applicant will not remove any original records from the offices of PGCPS.
- b. The Applicant will complete the inspection of the public record within ten business days after the custodian makes it available. The custodian may extend the initial inspection period by an additional ten business days if, within the initial period, the Applicant files a written request with PGCPS for additional time. At the conclusion of this period, PGCPS will close its file.
- c. The time during which an Applicant may inspect a public record may be interrupted by the custodian or PGCPS if the public record is needed for use by the school system. The period of interruption is not considered to be a part of the time during which the Applicant may examine the record.

7. PGCPS will work with charter school operators, as appropriate, to ensure that they and their staff comply with requests directly pertaining to records regarding employees or operations of such schools that are addressed within Policy 1120 and this administrative procedure.

8. Student Records

Request for access to or copies of student records are not covered by Policy 1120 or this administrative procedure. (See Administrative Procedures 5125, 5129, and 5134.)

9. Electronic Records

- a. An Applicant may request a copy of an electronic record in a searchable and analyzable electronic format if the following conditions are met:



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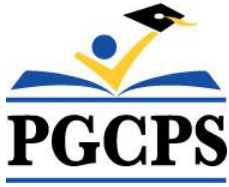
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- 1) the public record must exist in a searchable and analyzable format;
 - 2) the Applicant must explicitly request the copy in a searchable and analyzable format; and
 - 3) PGCPS's custodian must be able to produce a copy without compromising or disclosing material that is exempt from disclosure under the Act.
- b. PGCPS may remove the metadata from the copy that is provided, regardless of whether the metadata is otherwise exempt from disclosure.
 - c. PGCPS is not required to release an electronic record in a format that would jeopardize or compromise the security or integrity of the original or of any proprietary software in which the record is maintained.

D. Exempt Records

1. Certain PGCPS public records must be withheld or redacted pursuant to the MPIA, including but not limited to:
 - a. those subject to attorney-client privilege under § 4-301(a)(1);
 - b. those subject to federal and state statute under § 4-301(a)(2)(i) and (ii);
 - c. those subject to court orders or rules under § 4-301(a)(2)(iii) and (iv);
 - d. personnel records pursuant to § 4-311;
 - e. student records pursuant to § 4-313, and 20 USC § 1232g;
 - f. pursuant to § 4-314.1, records that disclose a safety evaluation or school emergency plan, an emergency response policy, guidelines for school resource officers and/or supplemental coverage by local law enforcement, or a plan to implement the Maryland Center for School Safety's guidelines;
 - g. medical or psychological information pursuant to § 4-329;



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h. Sociological Information

- 1) Pursuant to § 4-330, sociological information will be shielded from inspection or disclosure as part of a public record. This applies to students, employees, and job applicants.
- 2) Sociological information includes:
 - a) scholarship and financial aid records of individuals or their families;
 - b) records about an individual's personal history, age, family, race, national origin, creed, color, sex, pregnancy, sexual orientation, ethnic background, ancestry, physiology, religion, academic achievement, gender identity or expression, genetic information, veteran status or physical or mental ability;
 - c) family history – identity of relatives, emergency contacts or representatives;
 - d) medical or psychiatric history;
 - e) Social Security number;
 - f) date of birth;
 - g) credit card and other banking information;
 - h) personal addresses, personal telephone numbers, personal electronic mail addresses and personal social media account information;
 - i) personal identification number assigned by PGCPS;
 - j) information regarding marital status, domestic partnership, dependents or relatives, to include related employment benefits elections;
 - k) information regarding employment status, including disciplinary records and records related to an application for employment;
 - l) applicant information for admission, scholarships, employment or awards, including those of applicants who were either not selected/admitted or chose not to matriculate;
 - m) class or employment attendance information;
 - n) military service;
 - o) driver's license number;
 - p) state residency classification;
 - q) immigration status, passport and visa numbers;
 - r) religious preference, membership and attendance;
 - s) personal relationships, beliefs and values;



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- t) any information obtained through employment coaching or surveys;
 - u) student education records of a deceased student;
 - v) records not related to the transaction of public business;
 - w) unique biometric data. Biometric information includes an individual's physiological, biological or behavioral characteristics, including an individual's deoxyribonucleic acid (DNA), that can be used, singly or in combination with each other or with other identifying data, to establish individual identity;
 - x) internet or other electronic network activity information, including browsing history, search history, wireless network location data and information regarding an individual's interaction with an internet web site or application;
 - y) identification number assigned to each applicant, student or employee; and
 - z) employee and student identification system records, including identification photographs.
- i. trade secrets, confidential commercial information or confidential financial information pursuant to § 4-335, including procurement records that provide the successful vendor's customer list, biographical data on key employees, references and other documents marked as proprietary and confidential by the vendor; and
 - j. an individual's financial information, including their assets, income, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, pursuant to § 4-336.
- 1) This subsection does not apply to the salary of a PGCPS employee.
- 2. Portions of other public records may be exempt from disclosure if PGCPS determines that inspection by the Applicant would be contrary to the public interest. These public records include, but are not limited to:
 - a. pre-decisional and deliberative discussions under § 4-344, including procurement records that include evaluation forms and/or score sheets;
 - b. examination information, such as test questions or scoring keys, pursuant to § 4-345;



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- c. ongoing research projects under § 4-346; and
 - d. investigations and investigatory files pursuant to § 4-351.
3. In certain instances, a person in interest may have a greater right of access than citizens at large to otherwise exempt records.
 4. If a request for access to a PGCPS public record is denied, or information within a record is redacted, the Applicant will be provided with the statutory basis.

E. Student Data Requests

The Family Educational Rights and Privacy Act (FERPA) prohibits the school system from releasing individually identifiable information about a student to the public, which includes the chance to identify individual students in the release of student data. To meet FERPA requirements, student data provided in response to a request for public records will be produced consistent with the Maryland State Department of Education's suppression rules.

F. Staff Guidelines

1. PGCPS staff will refer members of the public seeking to submit a public record request to section V.B.3. above.
2. If an office or school receives a written request for public records under the MPIA, the request must be forwarded to the Office of General Counsel immediately.
3. PGCPS staff that are contacted by the Office of General Counsel for assistance in the search for and collection of public records shall cooperate fully and in a timely manner.

G. Fees

1. Staff Time for Search and Preparation
 - a. PGCPS will not impose a charge for the first two hours that employees spend to respond to an Applicant's request.



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- b. When staff time to search for requested public records and/or to prepare public records for inspection and/or copying exceeds two hours, the charge for such search and preparation shall be assessed at a reasonable rate. The fee may be inclusive of the time needed for staff to be present with the Applicant during inspection. The fee shall be calculated, on a prorated basis, using each involved staff person's individual salary (hourly rate) and actual time attributable to the search for, preparation, and review of the public records.
 - c. When the cost is estimated to be \$50 or more, including the cost of copies, PGCPS will require pre-payment.
 - d. When fees are assessed, there might be an opportunity for an Applicant to narrow their request (*e.g.*, by limiting the timeframe, narrowing the scope, or providing key search terms) before PGCPS expends more than two hours on the request and, therefore, reduce the resulting fees. Applicants are encouraged to follow up with PGCPS in such circumstances.
2. Photocopies
- a. A PGCPS employee must copy the requested documents. The Applicant must pay PGCPS \$.25 per page when the copies are made by a machine owned or operated by PGCPS, unless the documents are capable of being transmitted electronically without first making a copy. Payment must be made in advance, except public records of ten or fewer pages will be copied free of charge.
 - b. If the public record is not susceptible to photocopying (*e.g.*, punch cards, magnetic tapes, blueprints, microfilm), the fee for copies will be based on the actual cost of reproduction. If the custodian is unable to copy a public record within PGCPS, the custodian shall make arrangements for the prompt reproduction of the public record at public or private facilities outside of PGCPS. The custodian shall either collect from the Applicant a fee to cover the actual cost of reproduction, in advance of the reproduction, or direct the Applicant to pay the cost of reproduction directly to the facility making the copy.
 - c. If an Applicant requests that a copy of a public record be certified officially by the CEO or a member of the CEO's administrative staff, an additional fee of \$1.00 per page shall be charged.



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- d. Notwithstanding subsections a., b., and c. of this section, if the fees for copies, printouts, photographs or certified copies of any public record are specifically prescribed by a law other than the Act or this administrative procedure, the prescribed fee shall be charged.
3. Exclusive of the time needed for research, preparation and compilations, an Applicant will be charged \$3.00 for each CD and \$8.00 for each flash drive. PGCPS reserves the right to impose reasonable fees for other materials not listed herein.
4. If the Applicant requests that copies of the public record be mailed or delivered to the Applicant or to a third party, PGCPS may charge the Applicant for the cost of postage or delivery.
5. Minimum fee

A charge will not be assessed if the total fee is \$5.00 or less.
6. Waiver or Reduction of Fees
 - a. The General Counsel may waive or reduce any fee charged pursuant to this administrative procedure where:
 - 1) the Applicant asks for a waiver; and
 - a) the Applicant is indigent and files an affidavit of indigency; or
 - b) after consideration of the ability of the Applicant to pay the fee and other relevant factors, it is determined that the waiver or reduction would be in the public interest, rather than a personal or commercial purpose.
7. Payment shall be remitted to “Prince George’s County Public Schools” by money order, business or personal check, or certified cashier’s check.
8. If the fees are in excess of \$350 and the Applicant believes that the amount is unreasonable, the Applicant may request dispute resolution with the Public Access Ombudsman.



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H. Public Access Ombudsman

The Ombudsman mediates disputes under the Act that an Applicant and records custodian have been unable to resolve themselves. The Ombudsman does not accept public record requests on behalf of agencies and cannot compel the parties to act in a particular way. The Ombudsman's duties focus solely on attempting to resolve disputes between an applicant and a records custodian about an open request for a public record. Both an Applicant and PGCPS may request the assistance of the Ombudsman.

- I. PGCPS will retain copies of all information requests and the system's response to those requests on file for a three year period. As permitted by law, these requests and responses may be made available for inspection upon request.

J. Annual Report

PGCPS will prepare an annual report that summarizes statistical information regarding public record requests received in the preceding fiscal year. This annual report will be posted on the PGCPS website.

- VI. **MONITORING AND COMPLIANCE:** The Office of General Counsel is responsible for compiling the annual report.

VII. **RELATED PROCEDURES:**

- Administrative Procedure 5125 (Individual Student School-Based Records)
- Administrative Procedure 5129 (Student Transcript Requests)
- Administrative Procedure 5134 (Family Educational Rights and Privacy Act (FERPA) – Annual Notice and Directory Information)

VIII. **LEGAL REFERENCE:**

- 20 U.S.C. § 1232g (FERPA) and 34 C.F.R. Part 99
- Maryland Public Information Act (MPIA), Maryland Code, General Provisions Article, §§ 4-101 *et seq.*
- Maryland Attorney General's Public Information Act Manual

- IX. **MAINTENANCE AND UPDATE OF THESE PROCEDURES:** These procedures originate with the Office of General Counsel and will be updated as needed.



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- X. **CANCELLATION AND SUPERSEDURES**: This Administrative Procedure cancels and supersedes Administrative Procedure 1120, dated September 23, 2015.
- XI. **EFFECTIVE DATE**: August 11, 2022