

PROCEDURES FOR INSPECTION AND COPYING OF THE
PUBLIC RECORDS OF THE
MARIN HEALTHCARE DISTRICT

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The following Procedures govern the inspection and copying of all of the public records of the Marin Healthcare District. These Procedures have been adopted by the District Board and are administered by the Executive Assistant of the District under the Guidelines adopted by the District Board.

A. **Definitions.**

1. "**Act**" means the California Public Records Act (Government Code §§ 6250 et seq.)
2. "**Applicant**" means a person submitting an Application requesting inspection or copies of a Public Record.
3. "**Application**" means a request in any form, and containing the information set forth in Paragraph C of these Procedures, for inspection or copies of a public record.
4. "**Guidelines**" means the "Guidelines for Accessibility of the Public Records of the Marin Healthcare District".
5. "**Person**" includes any natural person, corporation, partnership, firm or association.
6. "**Procedures**" means the procedures set forth in this document.
7. "**Public Records**" includes any Writing containing information relating to the conduct of the business of the District prepared, owned, used or retained by the District regardless of physical form or characteristics.
8. "**Writing**" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents. Writing includes computer files and records, excluding software developed by the District.

B. Time and Place of Inspection.

The Public Records of the District subject to inspection and copying under the Guidelines may be inspected during the normal office hours of the District (8:30 a.m. to 2:30 p.m., Monday through Friday) (holidays excepted). The inspection of Public Records is subject to a rule of reason as to time and duration and must be consistent with the efficient functioning of the District office.

C. Application for Inspection.

Every person desiring to inspect the public records shall first complete an Application for Inspection or Copying of Records form. The Application may be in any form, so long as all of the following information is contained in the request:

1. The name, address and telephone number of the Applicant.
2. The date of inspection, in conformity with these guidelines.
3. A description of the records which the Applicant desires to inspect providing sufficient specificity to enable District staff to identify and locate the records.
4. Whether the Applicant desires a copy of the requested records.

D. District's Response to Application for Inspection.

1. Within ten (10) days of receipt of an Application, the District, in accordance with the Guidelines and Act, shall determine whether the Application seeks identifiable Public Records and whether to comply with the Application. The District shall immediately thereafter notify the person submitting the Application of the District's determination and the reasons therefore. Under the Act, the District may decide that a request should be denied based on a determination that the record being sought is "exempt" from public disclosure. Exempt records include, but are not limited to: preliminary drafts, records pertaining to litigation to which the District is a party (until the pending litigation or claim has been settled), attorney-client work product, or personnel or other similar files the disclosure of which would constitute an unwarranted invasion or personal privacy.

2. In case of "unusual circumstances," the District may extend the ten (10) day time limit by providing written notice to the person making the Application. The notice of extension shall set forth the reasons for the extension and the date on which a determination is expected to be made. Any such extension shall not exceed ten (10) working days. As used in this paragraph, "unusual circumstances" means:

- a. The need to search for and collect the requested records from field facilities;
- b. The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records contained in a single request;

- c. The need for consultation, which shall be conducted with practicable speed, with another agency having a substantial interest in the determination of the Application.

3. Questions of whether any record or portion thereof is exempt from disclosure pursuant to the Act or other laws shall be referred to the District's General Counsel who, in consultation with the Board Chair shall be responsible for determining whether exemption should be claimed. The decision of the Chair shall be final, subject to appeal to the District Board at its next regular meeting.

E. Fee for Copying and Certifying Records.

1. When the Applicant desires a copy of an identifiable Public Record or information produced therefrom that has not been determined to be exempt from disclosure under the Act, the Writing shall be copied (if it can be done so with equipment then available to the District) by the District for a charge of twenty-five cents (\$0.25) per page or ten dollars (\$10.00) per audio tape, which shall be deposited prior to the copying. If the copying cannot be done by the District for technical reasons or if the requested Writing is a tape, photograph, computer disk or other Writing requiring special equipment and/or time to copy, an estimate of the actual cost of duplicating the requested material shall be obtained by the District from any available source; for such Writings, the Applicant shall deposit the amount of the estimate (which shall be not less than \$0.25 per page) with the District prior to copying of the requested Writing. Cost of mailing (first class) will also be charged unless the Applicant makes arrangements to pick the material up from the District office during normal business hours.

2. The copying of the requested Records shall be accomplished by the District staff as soon as reasonably practicable after the request therefore without disruption of the normal business of the District. The Applicant shall be informed of the time necessary to accomplish such copying.

3. When the Applicant desires a certification of such copy(ies) of such records, a fee of ten dollars (\$10.00) shall be paid for such certification.

4. Certification of records shall be performed by the Executive Assistant or, in the absence of the Secretary, by the Chair of the Board.

F. Records Not to be Removed.

No original records of any kind may be removed by an inspecting party from the place of inspection for any purpose whatsoever without an order of a court of competent jurisdiction. The District may have an authorized agent observe the inspection of any original Record in order to ensure the preservation of the Record.

G. Procedures and Guidelines Available.

A copy of the "Procedures and Guidelines" shall be made available to any person upon request.

H. **Records of Inspection and Copying.**

Records of Applications, inspections and reproductions of Public Records shall be maintained by the District.

GUIDELINES FOR THE ACCESSIBILITY OF THE PUBLIC RECORDS OF THE MARIN HEALTHCARE DISTRICT

A. Purpose of Guidelines.

The purpose of these Guidelines is to serve as general rules to be followed in the administration of the "Procedures for Inspection and Copying of the Public Records of the Marin Healthcare District". Certain requirements of law must be observed relating to disclosure of records and to the protection of the confidentiality of records. These guidelines have been set by the Board of Directors of the District and are to be administered by the Executive Assistant of the District. Furthermore, the courts have held that restrictions may be placed on access to records in order to implement the following policy objectives: (1) to protect the records from theft, mutilation, or accidental damage; (2) to prevent interference with the orderly functioning of the office and its employees; or (3) to prevent chaos in the records archives. Bruce v. Gregory, (1967) 65 Cal.2d 666.

B. Definitions. The definitions set forth in the Procedures also apply to these Guidelines.

C. Questions of Interpretation.

1. In case of any question as to the accessibility of the records of the District under these Guidelines, records should not be made accessible to the public until such question has been determined by the Chair of the Board, in consultation with the District's General Counsel. The decision of the Chair shall be final, subject to appeal to the District Board at its next regular meeting.

2. The District shall justify the withholding of any record by demonstrating that the record requested and withheld is either (i) exempt by law from disclosure (see Paragraph E below); or (ii) that, on the facts of the particular case, the public interest served by not making the record public outweighs the public interest served by the disclosure of such record. In the case of any denial of an Application, the District shall within the period allowed under Paragraph E of the Procedures, notify the Applicant of the decision to deny the Application for records and shall set forth the names and positions of each person responsible for the denial of the request.

D. Records Subject to Inspection.

All public records of the District are subject to inspection pursuant to these Guidelines except as follows:

1. Records set forth hereinafter as records subject to inspection only with authorization;
2. Records **NOT SUBJECT** to inspection (unless by court order); or
3. Records which may be withheld by exercise of judgment, pursuant to Paragraph F below.

If the District discloses a Public Record which is otherwise exempt from disclosure under the Act, the disclosure shall constitute a waiver of the exemption otherwise applicable to such record.

E. **Records Not Subject to Inspection (Unless by Court Order).**

The records of the District which are **not subject to inspection or reproduction** by any person without a written order therefor issued by a state or federal court (see Paragraph H below) are set forth later in this document. Any change in the Act or by other law or by judicial decision which expands or limits the scope of records which are not subject to inspection or reproduction shall be automatically incorporated in this document even if the Board has not taken formal action to update the document to reflect the change.

F. **Discretionary Withholding of Records.**

In addition to the limitations upon disclosure of records set forth in these Guidelines, the District may, in its judgment, withhold inspection of any Record or Writing when the District determines that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. Such judgment shall be exercised by the District by and through the Chair, in consultation with the General Counsel. The decision of the Chair shall be final, subject to appeal to the District Board at its next regular meeting.

G. **Compliance With Subpoena Duces Tecum.**

A Subpoena Duces Tecum (a notice to appear and to bring records, or to produce records without appearance) issued by a court is **not** an order of the court declaring that the particular records are subject to disclosure. Such records may still be subject to protection against disclosure by reason of the existence of a privilege or other legal excuse. Therefore, receipt of such a subpoena does not permit disclosure of records in and of itself. If a subpoena is served on the District, the Chair shall consult with legal counsel representing the District as to the proper response.

H. **Records Which Are Not Subject To Inspection Or Copying.**

Records which are not subject to inspection or copying include records that are (1) specifically exempted from disclosure under § 6254 of the Act (copy attached) including, but not limited to: preliminary drafts, records pertaining to litigation to which the District is a party (until the pending litigation or claim has been settled), attorney-client work product, or personnel or other similar files the disclosure of which would constitute an unwarranted invasion or personal privacy or, where (2) depending on the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. Included in the second category are records falling within certain judicially created exemptions, for example, records containing trade secrets.