

**BOCES RECORDS REGULATION**

The following comprises the rules and regulations relating to the inspection and production of BOCES records:

**I. Designation of Officers**

1. The Records Access Officer shall be the Assistant District Superintendent for Management Services. He/she shall:
  - receive requests for records of the BOCES and make such records available for inspection or copying when such requests are granted; and
2. The District Superintendent, with the Board's approval, shall designate a Records Management Officer for the BOCES. The Records Management Officer will develop and oversee a program for the orderly and efficient management of BOCES records.

**II. Definition of Records**

1. A record is defined as any information kept, held, filed, produced or reproduced by, with or for the BOCES in any physical form whatsoever, including but not limited to reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or disks, rules, regulations or codes.
2. The Records Access Officer will have the responsibility for compiling and maintaining the following records:
  - a. a record of the final vote of each member of the Board on any proceeding or matter on which the member votes;
  - b. a record setting forth the name, school or office address, title and salary of every officer or employee of the BOCES; and 1120-R;
  - c. a reasonably detailed current list by subject matter of all records in possession of the BOCES, whether or not available for public inspection and copying.
3. No record for which there is a pending request for access may be destroyed. However, nothing in these regulations shall require the district to prepare any record not possessed or maintained by it except the records specified in II(2), above.

**III. Access to Records**

1. Time and place records may be inspected: Records may be requested from, and inspected or copied at, the Office of the Records Access Officer, at 1031 Watervliet-Shaker Road, Albany, NY 12205, during the hours of 8:00 a.m. and 4:00 p.m. on any business day **on** which the BOCES offices are open. Records may also be requested via e-mail at by Records Management Officer available BOCES at [www.capregboces.org](http://www.capregboces.org)
2. Fees: The fee for documents up to maximum rate allowed by law. Fees may be paid by cash, check or money order payable to the Board of Cooperative Services of Albany-Schoharie-Schenectady-Saratoga Counties, or the Capital Region BOCES. Receipts will be issued to those paying the required fee.
3. Procedures: Requests to inspect or secure copies of records shall be submitted in writing, either in person, by mail or via e-mail, to the Records Access Officer. [*Optional sentence: Forms are provided (1120-E.1-2) for written and e-mail requests, but are not required.*]

4. All requests for information shall be responded to within five business days of receipt of the request. The Records Access Officer shall acknowledge receipt of the request and if the request cannot be fulfilled within five business days advise the approximate date when the request will be granted or denied.
5. When records are determined to be available, the Records Access Officer will direct the requester to the place where the requested records may be inspected and will arrange for the preparation and certification of copies upon tender of the required fee. When records are determined to be unavailable, the Records Access Officer will certify upon the original request form (or email request as printed) that BOCES does not possess the record, or that it could not be found after a reasonable search, and will return one copy of the form to the requester.
6. If a request cannot be granted within 20 business days from the date of acknowledgement of the request, the BOCES must state in writing both the reason the request cannot be granted within 20 business days, and a date certain within a reasonable period when it will be granted depending on the circumstances of the request.
7. Denial of Access: When a request for access to a public record is denied, the Records Access Officer shall indicate in writing the reasons for such denial, and the right to appeal.
8. Appeal: An applicant denied access to a public record may file an appeal by delivering a copy of the request and a copy of the denial to the District Superintendent within 30 days after the denial from which such appeal is taken.
9. The applicant and the New York State Committee on Open Government will be informed of the District Superintendent's determination in writing within 10 business days of receipt of an appeal. The District Superintendent shall transmit to the Committee on Open Government photocopies of all appeals and determinations.

#### IV. Records Exempted from Public Access

The provisions of this regulation relating to information available for public inspection and copying shall not apply to records that:

1. are specifically exempted from disclosure by state and/or federal statute;
2. if disclosed would constitute an unwarranted invasion of personal privacy (see section V below);
3. if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
4. are confidentially disclosed to the Board and compiled and maintained for the regulation of commercial enterprise, including trade secrets, or for the grant or review of a license;
5. are compiled for law enforcement purposes and which, if disclosed, would:
  - a. interfere with law enforcement investigations or judicial proceedings;
  - b. deprive a person of a right to a fair trial or impartial adjudication;
  - c. identify a confidential source or disclose confidential techniques or procedures, except routine techniques or procedures; or
  - d. reveal criminal investigative techniques or procedures, except routine techniques and procedures;
6. records which if disclosed would endanger the life or safety of any person;
7. records which are interagency or intra-agency communications, except to the extent that such materials consist of:
  - a. statistical or factual tabulations or data;
  - b. instructions to staff which affect the public;

- c. final BOCES Board policy determinations; or
- d. external audits, including but not limited to audits performed by the comptroller and the federal government;
8. records which are examination questions or answers that are requested prior to the final administration of such questions;
9. records which are computer access codes.
10. any and all other records identified by law.

#### V. Prevention of Unwarranted Invasion of Privacy

To prevent an unwarranted invasion of personal privacy, the Records Access Officer may delete identifying details when records are made available. An unwarranted invasion of personal privacy includes but shall not be limited to:

1. disclosure of confidential personal matters reported to the Board which are not relevant or essential to the ordinary work of the Board;
2. disclosure of employment, medical or credit histories or personal references of applicants for employment, unless the applicant has provided a written release permitting such disclosures;
3. sale or release of lists of names and addresses in the possession of the Board if such lists would be used for private, commercial or fund-raising purposes;
4. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such records are not relevant or essential to the ordinary work of the Board; or
5. disclosure of items involving the medical or personal records of a client or patient in a hospital or medical facility.

Unless otherwise deniable, disclosure shall not be construed to constitute an unwarranted invasion of privacy when identifying details are deleted, when the person to whom records pertain consents in writing to disclosure, or when upon representing reasonable proof of identity, a person seeks access to records pertaining to him or her.

#### VI. Listing of Records

Pursuant to Public Officers Law Section 87(3)(c), the current records retention schedule for BOCES, published by the Commissioner of Education, shall serve as the list by subject matter of all records in the possession of the BOCES, whether or not available under the law.

#### VII. Litigation-Hold

The District Superintendent will designate a “discovery” team, comprised of the Records Access and Records Management Officer, BOCES attorney, [Director of the Northeastern Regional Information Center], and other personnel as needed. The discovery team will convene in the event that litigation is commenced to plan to respond to the request for records. The District Superintendent, with assistance from his or her designee, will ensure that measures are put in place to preserve applicable records.

**Adopted:** December 15, 2008