

BOARD OF DIRECTORS POLICY

Subject: Administration	Policy No: 1-8	Date: April 4, 2016
Title: PUBLIC RECORDS ACT	Resolution No: 2016-06	Page 1 of 1

1-8.1 PURPOSE

The purpose of this Policy is to affirm the public's right to access District records in accordance with the California Public Records Act (the Act) (California Government Code section 6250 et seq.) and any amendments thereto, as well as to adopt procedures to implement this Policy.

1-8.2 POLICY

Public records are available upon request and are open for inspection at all times during office hours. Every member of the public has a right to inspect any public record, except those records exempted from disclosure under the Act. The District is not required to create a record in response to a public records request. In addition, the District is not required to respond to prospective requests by providing records not yet in the District's possession or records that will be created in the future.

Determination as to whether a requested record is a public record and available for inspection or copying shall be made by the Fire Chief or designee. Decisions to withhold a record shall be reviewed by Legal Counsel.

The District will respond to every public records request in accordance with the Act and the procedures set forth in the Procedures set forth in Attachment A, which may be amended from time to time by the Fire Chief in furtherance of this Policy. If a request does not reasonably describe an identifiable record, the requested record does not exist, or the record is exempt from disclosure, the District will respond and inform the requester. In order to assist a member of the public to make a focused and effective request, the District will make a reasonable effort to elicit additional clarifying information from the requester that will help identify the record(s).

# ATTACHMENT A: PROCEDURES IMPLEMENTING DISTRICT POLICY 1-8, PUBLIC RECORDS ACT

## I. PURPOSE

These procedures implement District Policy 1-8, Public Records Act by the East Contra Costa Fire Protection District (District). The procedures provide guidance for the public on how to submit requests for public records, and establish procedures for staff to follow in responding to such requests. These procedures may be amended from time to time by the Fire Chief in accordance with applicable law and in furtherance of District policy.

## II. RECORDS SUBJECT TO THE ACT

- A. Public Records: Under the California Public Records Act (the Act) (California Government Code section 6250 et seq.), the District has a legal obligation to make public records available to the public during the hours that the District is open for business. In accordance with Government Code Section 6252, "public record" means any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the District regardless of physical form or characteristics. The Act defines a "writing" to include handwriting, typewriting, printing, photographs, photocopies, email, facsimile, and every other tangible form of recording of any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.
- B. Documents Not Subject to Disclosure: Certain categories of documents that are generally not subject to disclosure under the Act include:
- i. Preliminary drafts, notes or memoranda which are not retained by the District in the ordinary course of business;
  - ii. Records related to pending litigation;
  - iii. Attorney-client communications;
  - iv. Personnel records, medical information or similar records the disclosure of which would constitute an unwarranted invasion of personal privacy;
  - v. Corporate financial and proprietary information, including trade secrets;
  - vi. Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;
  - vii. Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes;
  - viii. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;
  - ix. The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the District relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired

or all of the contract agreement obtained, provided, however the law of eminent domain shall not be affected;

- x. Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information; and
- xi. Records protected by State or Federal law.

### **III. REQUESTING COPIES OF PUBLIC RECORDS**

- A. A request for public records may be made in writing or orally, in person or by phone. A written request may be made in paper or electronic form and may be mailed, emailed, faxed or personally delivered. The District may ask, but not require, that the requester put an oral request in writing.
- B. Requests for public records should be submitted through one of the following:
  - i. By Website (preferred): [www.eccfpd.org](http://www.eccfpd.org) (*complete URL to be added*)
  - ii. By U.S. Mail: 134 Oak Street, Brentwood, CA 94513
  - iii. By Email: [inforequest@eccfpd.org](mailto:inforequest@eccfpd.org)
  - iv. By Phone: 925-634-3400
  - v. By Fax: 924-634-1423

### **IV. RESPONDING TO A PRA REQUEST**

- A. Reviewing Requests
  - i. If a member of the public wishes to review documents that are (a) readily identifiable and accessible at the District counter; or (b) posted on the District's website, and are not privileged or exempt, the District must make the records available upon request.
  - ii. If the District cannot resolve the request immediately, then staff must calendar the deadline to respond and arrange to contact the person as soon as the requested documents are located within the timelines set forth in section IV.D and E below.
  - iii. Information requests received by any ECCFPD employee must be forwarded to the District's Administrative Assistant on the same day.
  - iv. Unless otherwise directed by the Fire Chief, the District's Administrative Assistant is responsible for responding directly to the requesting party for all Public Records Act requests other than subpoenas.
- B. Subpoenas
  - i. Any subpoena served on the District or request for information related to litigation must be brought to the immediate attention of the Fire Chief and Legal Counsel.
  - ii. Unless otherwise directed by the Fire Chief, the District's Administrative Assistant is responsible for responding directly to the requesting party for subpoenas related to incidents.

iii. The Fire Chief and Legal Counsel are responsible for responding directly to the requesting party for subpoenas related to medical or personnel records.

C. Withholding Privileged or Exempt Records: Not all documents are subject to disclosure under the Act. The District's Administrative Assistant or Fire Chief screens all documents identified in response to a request and ascertains, in consultation with the District's Legal Counsel, whether the documents fall within any of the privileges and exemptions as stated above or as provided by law. Email is a record under the Act.

D. 10-Day Initial Response Period: The District will respond to all requests for public records in a timely fashion. No later than 10 calendar days from receipt of the request, the District will:

- i. Provide the records electronically (e.g. via email or other file sharing system);
- ii. Notify the requester that the records are available for (a) in-person review (see IV.F) or (b) to be mailed to the requester for a fee (see V);
- iii. Notify the requester that responsive records were located, but are exempt from disclosure (see II.B) (Contact Legal Counsel prior to sending this letter or email.); or
- iv. Invoke a 14-day extension (see IV.E).

When counting days, the date the request is received is day zero. If the tenth day falls on a holiday or weekend, then the next work day after the tenth day becomes the last day to respond.

E. 14-Day Extensions: The District may extend the 10-day response period for up to 14 additional calendar days. The District must notify the requester in writing (email and faxes are acceptable) when extending the response period, stating the reason(s) for the extension and the anticipated date of the response within the 14-day extension period. The District may only extend the response period for the reasons permitted by the Act including:

- i. Need to search for and collect the requested records from other locations separate from the office processing the request;
- ii. Need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request;
- iii. To consult with another agency having substantial interest in the request, or among two or more components of the District with substantial interest in the request; or
- iv. In the case of electronic records, to compile data, write programming language or a computer program, or to construct a computer report to extract data.

F. If Applicable, Advise the Requesting Party of Procedure for In-Person Review: If the requester wishes to review the records before copying, the District's Administrative Assistant will set up a mutually agreeable time for the requesting party to review the records. The person should be advised to bring his or her own paper clips or tabs to indicate material to be duplicated. District Staff must monitor all members of the public at all times when they are reviewing District documents or files to ensure the integrity of the District records.

G. Send a Confirming Letter or Email to Create a Record of Compliance: For all public information requests, a letter or email always must be sent to the requester documenting the District's compliance with the Act. The Fire Chief, Legal Counsel, or Administrative Assistant will respond, as applicable, and copy the other two parties on all written communications. This will act as notification to the Fire Chief, Legal Counsel and the Administrative Assistant that the District

responded to the request. The confirming written communication will document all communications between the District and the requester and state that:

- i. Records are electronically attached to the communication;
- ii. Records are not available electronically, but are available for review (i) in-person (see IV.F) or (ii) to be mailed to the requester for a fee (see V);
- iii. The District has no responsive records;
- iv. The District is invoking a 14-day extension. State the reason(s) for the extension and the anticipated date of the response within the 14-day extension period; or,
- v. Responsive records were located, but are exempt from disclosure. (Contact Legal Counsel prior to sending this letter or email.)

**V. FEES AND CHARGES FOR COPYING PUBLIC RECORDS**

A. In most situations, the District will not charge any fees to cover the time and costs incurred in searching for, collecting and reviewing records. The District may charge a fee (as defined below) for the direct costs of duplicating paper copies or for providing a compact disc, or other storage device for electronic records when a requester seeks a copy in accordance with the District’s Fee Schedule, below. There is no cost associated with emailing scanned images or electronic versions of documents, but the District may recover costs of duplication of an electronic record and/or programming and computer services necessary to produce a copy of a requested record. (Government Code Section 6253.9.)

B. The District will charge these allowable fees according to the following schedule:

Standard size page up to 8½” by 14” (Black and White)	\$0.25 per page
Large size page (over 8½” by 14” up to 11” by 17”) (Black and White)	\$0.40 per page
Color copy up to 8½” by 14”	\$0.60 per page
Color copy – large sizes (over 8½” by 14” up to 11” by 17”)	\$1.10 per page
Compact discs and other electronic storage devices	Actual cost
Cost of duplication of an electronic record and/or programming and computer services necessary to produce a copy of the record	To be determined by District