

**PUBLIC RECORDS REQUEST**

The public has the right to examine and take a copy of any public record of Mountain Home School District No. 193 (MHSD). This policy sets forth the procedure for accessing the district’s public records. (*Idaho Code Title 74, Chapter 1, Section 74-102, and FERPA Federal Regulations and Guidelines*)

**DEFINITIONS (I.C. 74-101)**

“Applicant” means any person formally seeking a paid or volunteer position with a public agency; ~~“Applicant”~~ it does not include any person seeking appointment to a position normally filled by election.

“Copy” means transcribing by handwriting, photocopying, duplicating machine, and reproducing by any other means so long as the public record is not altered or damaged.

“Custodian” means the district employee(s) having physical custody and control of ~~the~~ public records **of the district, or authorized access thereto**, including those employees **who have been appointed to** respond to requests **for public records and other district** information on a routine basis, **and the designees of all such appointed custodians.** ~~“Custodian” also includes the person, whether elected or appointed, who is legally responsible for administration of the district, or that person’s designee.~~

“Inspect” means the right to listen, view, and make notes of public records so long as the public record is not altered or damaged.

“Public Record” includes, but is not limited to, any writing containing information relating to the conduct or administration of the district’s business that is prepared, owned, used, or retained by the district, regardless of the physical form or characteristics and includes e-mail containing information relating to the conduct and administration of district business.

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31 "Requester" means the person requesting examination and/or copying of public records. (*I.C. 74-*  
32 *101(14)*)

33  
34 "Writing" includes, but is not limited to, handwriting, typewriting, printing, Photostatting,  
35 photographing, and every means of recording, including words, pictures, sounds, symbols, or  
36 combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints,  
37 magnetic or punched cards, disks, drums, or other documents.

38  
39 **REQUEST TO EXAMINE PUBLIC RECORDS** (*I.C. 74-102*)

40  
41 **The district will designate one (1) person as custodian to receive and respond to public**  
42 **records requests and will provide at least one (1) alternate custodian for contingencies.**

43  
44 ~~Although the public records law allows district to require written requests for information, it is this~~  
45 ~~district's general practice to waive the formal requirement in those cases where the information~~  
46 ~~requested is readily available and routinely provided by this district.~~

47  
48 **The Mountain Home School District may require that a request for public records be submitted**  
49 **in writing using the district's Public Records Procedure – Form 3 – Access to Public Records,**  
50 **located on the district website** and provide the requester's name, mailing address, e-mail address,  
51 and telephone number. Those circumstances include instances when uncertainty exists over what  
52 the individual wants, when uncertainty exists over whether the information requested is protected  
53 or privileged, or when compiling or copying the information requested is anticipated to be unduly  
54 time-consuming or difficult. A request for public records and delivery of the public records may  
55 be made by electronic mail. **For transparency purposes, MHSD provides a majority of**  
56 **regularly requested public records information on our district website; please refer to our**  
57 **website, [www.mtnhomesd.org](http://www.mtnhomesd.org), prior to making your request.** (*I.C. 74-102(4)*)

58  
59 The custodian will make no inquiry of any person who requests a public record except to verify  
60 the identity of the requester or to ensure that the requested record or information will not be used

61 for purposes of a mailing or telephone list as prohibited by **Idaho Code Section 74-120 and Section**  
62 **74-102(5), Idaho Code.**

63  
64 The district may provide the requester information to help the requester narrow the scope of the  
65 request or to help the requester make the request more specific when the response to the request is  
66 likely to be voluminous or require payment. *(I.C. 74-102(9))*

67  
68 Examination of public records must be conducted during regular office or working hours. When  
69 necessary, a designated custodian may authorize an examination of records to be done outside of  
70 regular working hours. In this event, the persons designated to represent the custodian during such  
71 examination will be entitled to reasonable compensation to be paid to them out of funds provided  
72 in advance by the person examining the records. *(I.C. 74-102(8))*

73  
74 The custodian will maintain vigilance to ensure that records are not altered or destroyed, but may  
75 not review, examine, or scrutinize any copy, photograph, or notes in the person's possession. *(I.C.*  
76 *74-102(7))*

77  
78 **COSTS FOR PROVIDING PUBLIC RECORDS** *(I.C. 74-102(10))*

79  
80 Except for fees that are authorized or prescribed under other provisions of Idaho law, no fee shall  
81 be charged for the first two (2) hours of labor in responding to a request for public records, or for  
82 copying the first one hundred (100) pages of paper records that are requested. If the information is  
83 also available in publication form, the district may offer the published material to the individual  
84 or organization at the standard cost of selling the publication.

85  
86 This district may charge the actual labor cost associated with locating and copying documents  
87 when:

- 88  
89 1. The request is for more than one hundred (100) pages of paper records; or  
90  
91 2. The request includes records from which nonpublic information must be deleted; or

92

93 3. The actual labor associated with locating and copying documents for a request exceeding  
94 two (2) person hours.

95

96 Labor fees will not exceed reasonable labor costs necessarily incurred in responding to a public  
97 records request. Fees, if charged, will reflect the personnel and quantity of time that are reasonably  
98 necessary to process a request. Fees for labor costs will be charged at the per hour pay rate of the  
99 lowest paid administrative staff employee who is necessary and qualified to process the request.

100

101 If a request requires redactions to be made by an attorney, the rate charged will be no more than  
102 the usual and customary rate of the attorney who is retained by the district for that purpose. (I.C.  
103 74-102(10)(e))

104

105 The copying or conversion fee schedule will be made available to those individuals requesting  
106 copies and will be updated from time to time as necessary to reflect the actual copying and labor  
107 costs to the district. (I.C. 74-103(1))

108

109 The district ~~may will~~ not charge any cost or fee for copies or labor when the requester demonstrates  
110 that the requester's examination and/or copying of public records:

111

112 1. Is likely to contribute significantly to the public's understanding of the operations or  
113 activities of the government.

114

115 2. Is not primarily in the individual interest of the requester including, but not limited to, the  
116 requester's interest in litigation in which the requester is or may become a party.

117

118 3. If the requester has insufficient financial resources to pay such fees.

119

120 The district's statements of fees will be itemized to show per page costs for copies, hourly rates of  
121 employees and attorneys involved in responding to the request, and the actual time spent on the  
122 public records request. No lump sum costs will be assigned to any public records request.

123  
124 The custodian may require advance payment of fees when deemed appropriate. If there is a request  
125 to mail copies of documents to an individual, the custodian may request advanced payment for the  
126 copies and a stamped, self-addressed envelope large enough for the number of copies. Any portion  
127 of an advance payment in excess of the actual costs of labor and copying incurred by the district  
128 in responding to the request will be returned to the requester. (*I.C. 74-102(12)*)

129  
130 A requester may not file multiple requests for public records solely to avoid payment of fees. When  
131 the district reasonably believes that one (1) or more requesters is segregating a request into a series  
132 of requests to avoid payment of fees authorized pursuant to this section, the district may aggregate  
133 such requests and charge the appropriate fees. The district may consider the time period in which  
134 the requests have been made in its determination to aggregate the related requests. The district will  
135 not aggregate multiple requests on unrelated subjects from one (1) requester. (*I.C. 74-102(11)*)

136  
137 **RESPONSE TO REQUEST FOR EXAMINATION OF PUBLIC RECORDS** (*I.C. 74-103*)

138  
139 The district will either grant or deny a person's request to examine or copy public records within  
140 three (3) working days of the date of the receipt of the request for examination or copying. If it is  
141 determined by employees of the district that a longer period of time is needed to locate or retrieve  
142 the public records, the district will notify the requestor in writing and will provide the public  
143 records to the person no later than ten (10) working days following the person's request.

144  
145 If it is determined the existing electronic record requested will first have to be converted to another  
146 electronic format by the district or by a third party and that such conversion cannot be completed  
147 within ten (10) working days, the district will notify the requestor in writing. The district will  
148 provide the converted public record at a time mutually agreed upon between the district and the  
149 requester, with due consideration given to any limitations that may exist due to the process of  
150 conversion or due to the use of a third party to make the conversion. (*I.C. 74-103(1)*)

151  
152 If no answer is provided by this district within ten (10) working days, the request will be deemed  
153 to have been denied.

154

155 **DENIAL OF REQUESTS** (*I.C. 74-103*)

156

157 If a request for a record is denied in whole or in part, the person making the request must be notified  
158 in writing. This notice must include:

159

160 1. A statement that an attorney for the district has reviewed the request, or that the district had  
161 the opportunity to consult with an attorney and has chosen not to do so;

162

163 2. The statutory basis for the denial;

164

165 3. A simple statement of the right to appeal and the time limit for an appeal as set forth in  
166 *Sections 74-103 and 74-115, Idaho Code.*

167

168 The time limit for filing an appeal is one hundred eighty (180) days from the date the notice of  
169 denial is mailed. The sole remedy for protesting the district's decision is to file a petition in the  
170 district court of the county where the records or some part of them are located, requesting the court  
171 to compel the district to make the information available or to correct the record. (*I.C. 74-115*)

172

173 When a request is denied, the requested records will be retained until the end of the appeal period,  
174 until there has been a decision on an appeal, or as otherwise provided by the public records law,  
175 whichever is longer. (*I.C. 74-115(2)*)

176

177 The school district shall keep all documents or records in question until the end of the appeal  
178 period, until a decision has been rendered on the petition, or as otherwise statutorily provided,  
179 whichever is longer. (*I.C. 74-115(2)*)

180

181 ~~Electronic mail not designated as spam mail is retained (archived) by the district for a~~  
182 ~~period of two years starting January 1, 2014. (MHSD Policy Computer & Network~~  
183 ~~Services Policy 1).~~

184

185 **RECORDS EXEMPT FROM DISCLOSURE** *(I.C. 74-104 thru 74-112)*

186

187 The Idaho Legislature has set forth particular records that are exempt from disclosure to the public.

188 All employees should be aware of the following exemptions that apply to this school district. The

189 following list sets forth some of the designated exempt records:

190

191 1. Any public record exempt from disclosure by federal or state law or federal regulations to  
192 the extent specifically provided for by such law or regulation. This includes, but is not  
193 limited to, student records under the Family Educational Rights and Privacy Act (**FERPA**).  
194 *(I.C. 74-104)*

195

196 2. Records relating to the appraisal of real property, timber, or mineral rights, prior to its  
197 acquisition, sale, or lease by the district. *(I.C. 74-107)*

198

199 3. Any estimate prepared by the district that details the cost of a public project until such time  
200 as disclosed or bids are opened, or upon award of the contract for construction of the public  
201 project. *(I.C. 74-103)*

202

203 4. The records of a library that, when examined alone or when examined with other public  
204 records, would reveal the identity of the library patron checking out, requesting, or using  
205 an item from the library. *(I.C. 74-108 including academics, testing materials, etc.)*

206

207 5. Computer programs developed and purchased by or for the district for its own use.  
208 However, computer program does not include: *(I.C. 74-107)*

209

210 a. The original data including, but not limited to, numbers, texts, voice, graphics, and  
211 images;

212

213 b. Analysis, compilation, and other manipulative forms of the original data produced  
214 by use of the program;

215

- 216 c. The mathematical or statistical formulas that will be used if the manipulative forms  
217 of the original data were to be produced manually.  
218
- 219 6. Employment security information and unemployment insurance benefit information,  
220 except that all interested parties may agree to waive the exemption. (*I.C. 74-106(7)*)  
221
- 222 7. Facts contained in any records of a juvenile maintained under the Juvenile Correction Act  
223 will be furnished upon request to any district where the juvenile is enrolled or is seeking  
224 enrollment. If a juvenile is fourteen (14) years or older and is adjudicated guilty of an  
225 offense that would be a felony if committed by an adult, the name, the offense of which  
226 the juvenile was adjudicated, and the disposition of the court will be disclosed. (*I.C. 74-*  
227 *105(2)*)  
228
- 229 8. All personnel records of a current or former employee other than the employee's public  
230 service or employment history, classification, pay grade and step, longevity, gross salary  
231 and salary history, **including bonuses, severance packages, other compensation or**  
232 **vouchered and unvouchered expenses for which reimbursement was paid**, status,  
233 workplace, and employing district. (*I.C. 74-106(1) and 74-106(20)(d)*)  
234
- 235 9. All other personnel information relating to the employee or applicant, including, but not  
236 limited to, information regarding sex, race, marital status, birth date, home address and  
237 telephone number, **social security number, driver's license number**, applications, testing  
238 and scoring materials, grievances, correspondence, and performance evaluations, will not  
239 be disclosed to the public without the employee's or applicant's written consent. An  
240 employee or authorized representative may inspect and copy his or her personnel records,  
241 except for material used to screen and test for employment. (*I.C. 74-106(1)*)



242

243 **RECORDS CONTAINING A COMBINATION OF BOTH EXEMPT AND NON-EXEMPT**  
244 **MATERIALS** (*I.C. 74-112*)

245

246 If any public record contains material, which is not exempt from disclosure as well as material,  
247 which is exempt from disclosure, the district will **redact separate** the exempt and nonexempt  
248 material and make the nonexempt material available for examination. The district will not deny a  
249 request to copy nonexempt material in a public record based upon the fact that the record contains  
250 both types of materials.

251

252 **INSPECTION AND CORRECTION OF AN INDIVIDUAL'S RECORDS** (*I.C. 74-113*)

253

254 An individual may inspect, copy, and request correction of public records pertaining to that person,  
255 except those portions of records that are exempt from disclosure. Such requests will be referred to  
256 a designated custodian immediately. Within ten (10) days of the receipt of a written request to  
257 amend any record pertaining to that person, the district will either:

258

259 1. Make any correction of any portion of the record which the person establishes is not  
260 accurate, relevant, or complete; or

261

262 2. Inform the person in writing of the refusal to amend with the reasons for the refusal and  
263 clearly indicate the person's right to appeal the refusal and the time period for doing so as  
264 set forth above in "Denial of Requests" and **Idaho Code Sections 74-103** and 74-115 ~~and~~  
265 ~~74-116, Idaho Code.~~

266

267 **DISTRIBUTION OR SALE OF MAILING OR TELEPHONE NUMBER LISTS**  
268 **PROHIBITED** (*I.C. 74-120*)

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270 This district will not distribute or sell for use as a mailing list or a telephone number list any list  
271 of persons, including students and employees, without first securing the permission of those  
272 individuals named on the list. This district will verify the identity of a person requesting a record

273 to ensure that the requested record or information will not be used for purposes of a mailing or  
274 telephone list. 9-348

275  
276

277 **PENALTY AND IMMUNITY** (*I.C. 74-117 and 74-118*)

278

279 The public records law provides a penalty of up to one thousand dollars (\$1,000) for a deliberate,  
280 bad faith denial of information that should be disclosed. The public records law also provides  
281 immunity from liability for the release of records as long as there is a good-faith attempt to comply  
282 with the law’s requirements. Therefore, it is important that any questions or any requests that seem  
283 doubtful be immediately referred to a designated custodian.

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287 **LEGAL REFERENCE:**

288 Idaho Code Section 74-101 *et seq.*, - Public Records Act

289 34 CFR Part 99 – Family Educational Rights and Privacy Act (FERPA)

290 *Cowles Publishing Company v. Kootenai County Board of Commissioners, et al.*, **144 Idaho**

291 **259, 159 P.3d 896 (2007)** ~~Op. 2007-74 (May 4, 2007)~~

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293

294 **ADOPTED:** April 19, 2016

295 Revised:

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