

PARKER JORDAN METROPOLITAN DISTRICT
PUBLIC RECORDS POLICY
Adopted June 18, 2012
Revised as of July 1, 2014

I. Purposes of the District's Public Records Policy

This Public Records policy of the Parker Jordan Metropolitan District (the "District") shall be applied and interpreted with the following purposes in mind:

A. To adopt a public records request policy pursuant to Section 24-72-203(1) and Section 24-72-205(6), C.R.S.;

B. To provide access to and the protection and integrity of public records in the custody of the District;

C. To prevent unnecessary interference with the regular discharge of the duties of the District and its manager in compliance with the Colorado Open Records Act, Section 24-72-201 to 24-72-309, C.R.S. ("CORA");

D. To establish reasonable and standardized fees for producing copies of and information from records maintained by the District custodian of records as authorized by CORA;

E. To set forth a general procedure for providing consistent, prompt and equitable service to those requesting access to public records.

II. Public Records Requests

A. Applicability

This public records request policy applies to requests submitted to members of the Board of the District, its manager, or the custodian of records for the inspection and/or copying of public records pursuant to CORA.

B. Definitions

1. **"Custodian"**: Except as otherwise provided in this policy, the term "Custodian" shall mean CliftonLarsonAllen, LLP, or any successor that has been designated by the Board of the District to act as manager of the District, where the duties of such manager include the collection, retention, and retrieval of public records of the District.

2. **"Public Records"**: Is defined in Section 24-72-202(6)(a) and (6.5), C.R.S. and as:

a. "Public records" means and includes all writings made, maintained, or kept by the District, and used by the District in the exercise of functions

required or authorized by law or administrative rule, or functions involving the receipt or expenditure of public funds. This term does not include writings that have not been seen by the District, and have not been used by the District to exercise its official functions.

b. “Public records” includes the correspondence concerning the District or its business, whether among board members, between board members and the manager, between board members and third parties, and between the manager and third parties, except to the extent that the correspondence or e-mail is:

(i) Work product or privileged, including attorney-client privileged;

(ii) Without a demonstrable connection to the exercise of the District’s functions as required or authorized by law or administrative rule, or without a demonstrable connection to the receipt or expenditure of public funds of the District; or

(iii) A communication from a constituent to a member of the Board of the District that clearly implies by its nature or content that the constituent expects that it is confidential or a communication from the member in response to such a communication from a constituent.

c. “Public records” does not include documents not subject to disclosure because such inspection would be contrary to any state statute or federal statute or regulation, or is prohibited by rules promulgated by the Colorado Supreme Court or by the order of any court.

d. “Public records” does not include computer hardware, including desktop or laptop computers or storage devices such as computer hard drives or thumb drives.

3. **“Requestor”**: the person making a request for a public record.

4. **“Writings”**: As defined in Section 24-72-202(7), C.R.S.:

a. “Writings” means and includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics.

b. “Writings” includes digitally stored data including, without limitation, electronic mail messages, but does not include computer software.

c. “Writings” does not include data that is automatically created, stored, or retained on an individual computer or on network equipment or servers, such as e-mail metadata that is not otherwise imprinted or stored as part of the visible content of an e-mail message, logs, web traffic statistics, browser cookies, browser cache, server logs, browser history, or firewall logs.

C. **Submission of Requests**

1. Requests for inspection of records must be submitted in writing on an official request form to the Custodian and must be sufficiently specific as to enable the Custodian to locate the information requested with reasonable effort. The District has determined that the use of an official request form is necessary for the efficient handling of public records requests.

2. Requests may be submitted by mail, fax, e-mail, or hand-delivery.

3. A request shall be considered made when the request is actually received by the Custodian.

a. A letter is received when it is opened in the usual course of business by the Custodian or a person authorized to open the Custodian's mail;

b. A fax is received when it is printed during regular business hours, or if received after hours, at 8:30 a.m. on the following business day; and

c. An e-mail is received when it is received and opened during regular business hours, or, if received after hours, at 8:30 a.m. on the following business day.

4. An employee of the District's manager who receives a request for records shall immediately refer the request to the person designated by the manager for the receipt of such requests.

5. If a monetary deposit is required, the request is not considered received until the deposit is paid.

D. **Inspection**

1. If the Requestor has requested inspection and no other service, then:

a. The Custodian or the Custodian's designee shall make the requested public records available for inspection at the office of the Custodian or other location designated by the Custodian during regular business hours, deemed to be from 8:30 a.m. to 4:30 p.m., Monday through Friday, except for times the Custodian's office is closed. During the inspection of records, the Custodian may request the Requestor follow certain procedures to protect the integrity of the public record.

b. If a public record is not immediately or readily available for inspection, the Custodian or the Custodian's designee shall make an appointment or other arrangements with the Requestor concerning the time at which the requested record will be available. The records shall be made available for inspection within a reasonable time, which is presumed to be three (3) working days or less from the date of receipt of the request. Such three (3) day period may be extended by an additional seven (7) working days if extenuating circumstances, as described in Section 24-72-203(3)(b), C.R.S., exist.

Responding to applications for inspection of public records need not take priority over the previously scheduled work activities of the Custodian or the Custodian's designee.

c. All public records to which the request applies shall be preserved from the date of the request for a period of 90 days, regardless of any records maintenance, retention, or deletion policy or practices utilized by the Custodian. At the end of the 90-day period the Custodian should consider whether the preservation should be continued.

d. No one shall remove a public record from the Custodian's offices without the permission of the Custodian. Records may be removed from file folders or places of storage for photocopying by the Custodian or the Custodian's designee. The Custodian may allow a person to use his or her own portable electronic equipment to make copies of public records.

e. As a general practice, in response to a public records request:

(i) Public records in hard copy, paper, published, or documentary form shall be made available for inspection;

(ii) A document will not ordinarily be created in order to respond to such a request;

(iii) Public records will not ordinarily be forwarded electronically in response to such a request;

(iv) In the case of e-mail that is a public record, paper copies of such e-mail that is a public record will be made available by the Custodian in response to such a request;

(v) The person making the request shall not be allowed to access the Custodian's computer or any other computer for purposes of inspecting any public records;

(vi) Any portion of a public record containing non-public information that is not subject to inspection may be redacted by the Custodian prior to making the record available for inspection. The Custodian is not required to redact information from a writing that is not a public record in order to make the writing available for inspection *Denver Publishing Co. v. Bd. Of County Comm'rs of the County of Arapahoe*, 121 P.3d 190 (Colo. 2005); *Colorado Republican Party v. Benefield, et al.*, Court of Appeals No. 07CA1216, Oct. 23, 2008 (Unpublished).

(vii) The Custodian, in consultation with the District's general counsel, will determine which information is no longer considered "work-in-progress" subject to the deliberative process or work product privilege and therefore eligible for release.

f. Where a request seeks in excess of 25 e-mails or other electronically-stored public records, the Custodian may elect to produce public records in electronic form on a disk or comparable media. The following procedure shall apply in responding to such a request:

(i) The Custodian shall solicit the comments of the Requestor regarding any search terms to be used to locate and extract such records, and, in doing so, will seek to have the request refined so that it does not result in an inordinate number of irrelevant or duplicating documents, provided, however, that the Custodian will make the final determination regarding search terms;

(ii) The Custodian shall designate an employee or another person with experience in performing electronic searches to locate and extract responsive records;

(iii) The person who is designated to perform the searches shall consult, as appropriate, with legal counsel to identify privileged records that should not be produced; and

(iv) Where appropriate, legal counsel shall conduct a final review to identify and potentially to withhold privileged records.

g. The Custodian or the Custodian's designee shall deny the inspection of the records if such inspection would be contrary to federal or state law or regulation or would violate a court order. In special circumstances, a Custodian shall deny inspection of the records if such inspection would cause substantial injury to the public interest. Such a denial shall be made in writing by the Custodian to the person making the request and shall set forth with specificity the grounds of the denial. It is not necessary to state a ground for denial of access for each document if a specific ground is applicable to a group of documents.

h. If the public records requested are not in the custody or control of the Custodian, the Custodian shall notify the Requestor of this fact in writing. In such notification, the Custodian shall state in detail to the best of his/her knowledge and belief the reason for the absence of the public records, the location of the public records, and what person then has custody or control of the public records.

i. All public records, regardless of storage format, will be administered in accordance with approved retention schedules. The District may adopt the records retention policy that has been promulgated by the Custodian.

E. Fees for All Record Requests

1. Fees for standard reproductions. The Custodian or the Custodian's designee shall charge a fee not to exceed twenty-five cents per standard page for any photocopies of records that are required to make a record available. Printouts and other reproductions of records shall be provided at a cost not to exceed the actual cost of the printout or other reproduction. Such fees shall be paid by the Requestor prior to the receipt of copies of any

public records. Requests expected to exceed a total charge of \$10.00 or more must be accompanied by a deposit equal to the reasonably-estimated reproduction costs. This deposit will be credited toward the total fee, and the total fee shall be paid prior to release of the requested records. In the event the deposit amount exceeds the actual costs, the balance will be refunded.

2. Fees for research and retrieval:

a. In the case of any request requiring more than one hour of staff time for research and retrieval or for supervision of inspection or copying, the Custodian or the Custodian's designee shall charge thirty dollars (\$30) per hour for such staff time. However, there will be no charge for the first hour. Prior to performing any services necessary to respond to a request, the Custodian or the Custodian's designee shall require the applicant to pay a deposit equal to the reasonably-estimated fees, including the applicable cost of copies, that will be charged by the Custodian for such staff time. Before receiving any records, the applicant shall also pay the amount by which the cost of any open records services exceeds the deposit. The District shall promptly refund the amount by which the deposit exceeds the cost of any open records services.

b. To the extent possible, the Custodian shall utilize administrative or clerical staff for research and retrieval of public records who are ordinarily responsible for such duties to ensure that the fees charged for staff time in connection with the request represent costs incurred in the ordinary course of business and not extraordinary charges.

c. Research and retrieval fees shall conform with Section 24-72-205(6), C.R.S.

F. **Effective Date**

This Resolution is effective as of July 1, 2014.

G. **Automatic Update**

Consistent with Section 24-72-205(6), C.R.S., unless otherwise directed by the Board, on July 1, 2019, and by July 1 of every five-year period thereafter, the custodian shall adjust the maximum hourly fee specified in this Resolution in accordance with the percentage change over the period of the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder-Greeley, All Items, All Urban Consumers, or its successor index as posted by the Director of Research of the Legislative Council on the website of the General Assembly.

H. **Additional Conditions**

The custodian may promulgate such other conditions as may be necessary or convenient for the protection of the records.

I. **Public Notice**

The Custodian shall either post on the District Custodian's website or otherwise publish this written policy that specifies the applicable conditions concerning the research and retrieval of public records by the custodian, including the amount of any current fee.