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Public Information Request Policy	

Printed copies are for reference only. Please refer to the electronic copy for the latest version.

I. DEFINITIONS

- A) "District" means the Kaweah Delta Health Care District or any employee authorized to act on its behalf.
- B) "Public Record" includes any writing which contains information relating to the conduct of the public's business and/or which is prepared, owned, used, or retained by the District.
- C) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation.

II. PURPOSE

The purpose of this policy is to set the guidelines for compliance with the California Public Records Act, commencing at Section 6250 of the Government Code, and other applicable statutes and case law, by setting forth the procedures to be followed when making records available to the public. It is the policy of the District that public records be open for inspection and made available with minimal delay to the requesting party. Pursuant to section 6257 of the California Public Records Act, a fee equal to the direct cost of duplication may be charged to any person requesting a copy of a public record.

III. RECORDS AVAILABLE TO THE PUBLIC

Agendas or any other writings, except for records exempt from disclosure (including but not limited to the items listed below) under section 6254 of the California Public Records Act, distributed to all or a majority of the members of a legislative body for discussion or consideration at a public meeting are disclosable to the public upon request, and shall be made available to members of the public in accordance with the provisions of section 54957.5 of the Ralph M. Brown Act.

All questions as to whether or not a record is exempt from disclosure according to this policy should be referred to counsel for the District. Records exempt from disclosure include the following:

RECORDS NOT AVAILABLE OR REQUIRES REFERRAL TO CONSEL FOR THE DISTRICT:

- A) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the District in the ordinary course of business, providing that the public interest in withholding those records clearly outweighs the public interest in disclosure.
- B) Records pertaining to pending litigation to which the District is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claims have been finally adjudicated or otherwise settled. Gov. Code Sec. 6254(b).

- C) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. Gov. Code Sec. 6254(c).
- D) Requests for JCAHO final accreditation reports (that are forwarded to the State Department of Health Services) should be referred to counsel for the District.
- E) Confidential communications between the District and its attorneys. Evidence Code Section 954.
- F) Records of documents covered by the attorney work product privilege, or any other judicially recognized privilege, including but not limited to, the deliberative process privilege covered by the Evidence Code.
- G) A memorandum submitted to a state body or the District's Governing Board by its legal counsel pursuant to subdivision (q) of Government Code Section 11126 or 54956.9 until the pending litigation has been fully adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled. Gov. Code Sec. 6254.25.
- H) Trade Secrets – Information claimed to be a trade secret at the time of submittal to the District may be treated as a trade secret according to Government Code Sec. 6254 et. Seq. See below **IV. Procedure**, paragraph C.
- I) Requests for contracts and rates for inpatient and outpatient services should be referred to counsel for the District.
- J) Request for contracts and rates for “major risk” and “managed risk” medical insurance program information should be referred to counsel for the District.
- K) Real estate appraisals, engineering or feasibility estimates and evaluations should be referred to counsel for the District.

IV. **PROCEDURE**

Requesting Copies of Public Records

All requests for copies of public records must be made in writing. The requests must be addressed to the Board of Directors of Kaweah Delta Health Care District. Requests may be sent by facsimile or e-mail. All requests must be made with sufficient clarity so as to reasonably describe an identifiable record. (Gov. Code Sec. 6257). Requests not meeting these criteria may be returned. Reasonable restrictions may be imposed upon general requests for voluminous classes of documents. Copies will not be provided if disclosure would infringe a copyright or would constitute an unreasonable burden on the operation of the District.

Response Time

The District shall determine within 10 days after the receipt of a public records request whether to comply with the request and shall immediately notify the requestor of its determination and the reasons therefor. Gov. Code Sec. 6256. Such notification will include a public records reference number, which should be used in any further correspondence relating to the request. The District should be able to make readily compiled records available within 10 days of receipt of the request. Additional time may be required if there is a large amount of material to compile, or if there is a question regarding the status of the requested records as public records. In either case, the requestor will be notified within the above 10-day period and will be given the approximate date by which public information will be made available.

Exempt Records and Trade Secrets

Records that are exempt from the Public Records Act will normally not be released. Exceptions to this policy may be granted at the discretion of the Chief Executive Officer. Records claimed by third parties to be trade secrets or otherwise exempt from disclosure will not be immediately released unless the

District determines they are clearly public records. Only information claimed to be a trade secret at the time of submittal to the District may be treated as a trade secret. Notice will be sent by certified mail to the third party claiming exempt or trade secret status. Such third party is responsible for providing its current mailing address to the District. The notice shall include a copy of the request, and a request for a detailed and complete justification of the basis for exempt or trade secret status, as defined in Section IV, to be provided within 15 calendar days of the date of the letter. If no justification is timely received, the subject records shall be released as specified herein. Any justification claiming trade secret status must include a sworn declaration that should address the following six factors (Restatement of Torts Sec. 757.):

1. the extent to which the information is known outside of the person's business;
2. the extent to which it is known by employees and others involved in the person's business;
3. the extent of measures taken by the person to guard the secrecy of the information;
4. the value of the information to the person's business and to the person's competitors;
5. the amount of effort or money expended by the person in developing the information;
6. the ease or difficulty with which the information could be properly acquired or duplicated by others.

In addition, any justification must be specific enough so as to identify which specific information in a document constitutes a trade secret or is exempt so that it may be blocked out in a document, with the remaining information to be released. Gov. Code Sec. 6257. As a result, all documents subject to the request should be reviewed by the third party claiming exempt or trade secret status before submitting its justification to enable it to specifically segregate information contained in those documents that may or may not be released. Failure to so segregate may result in the release of all information.

The District shall evaluate the justification, and any other information at its disposal and shall determine if the justification supports the claim that the material is in fact exempt or is a trade secret under Government Code Section 6254 and Section 6254.7, respectively. If the District determines that the claim is bona fide and that the material is exempt or a trade secret, the District Administrative Office shall notify the requestor that the data sought is exempt or a trade secret and therefore cannot be released. The requestor shall be advised of its right to bring appropriate legal action to compel disclosure. Any such action should name the third party claiming an exemption from disclosure as a real party in interest.

If the District determines that the claim of exemption or trade secret is not meritorious or is inadequately supported by the evidence, the District shall promptly notify, by certified mail, the third party who claimed exempt or trade secret status that the justification is inadequate, and that the information shall be released after 10 calendar days from the date of receipt of such notice. Such third party shall also be advised of its right to bring appropriate legal action to prevent disclosure, and of its right to further respond. However, such further response, if inadequate, will not toll the 10-day period for release. In the event the third party cannot be reached at its last listed address with the District, the information shall be released after 15 calendar days of the date of such notice. Any legal action brought by the third party should name the requestor as a real party in interest.

The above procedures regarding exempt records and trade secrets do not apply to requests made by other governmental agencies for purposes of carrying out their official responsibilities, if such agencies agree to treat the disclosed material as confidential pursuant to a written confidentiality agreement with the District. The confidentiality agreement shall designate those persons authorized by the

requesting governmental agency to obtain the information. Gov. Code Sec. 6254.5.

The above procedures are also inapplicable if the requestor and the third party enter into an agreement waiving any objections to the District's release of the requested information. A signed copy of the agreement must be provided to the District.

Subpoenas

The Public Records Act is not applicable in situations where subpoenas have been issued against the District for document production. Any such subpoenas shall be referred to District Counsel's Office unless otherwise directed by that office.

Request for Access to Inspect Specific Files

It is the policy of the District that all records open for public inspection shall be available with the least possible delay and expense to the requesting party. Public records are open to inspection at all times during the office hours of the District, and every citizen has a right to inspect any public record as defined herein. To permit sufficient time for the District to compile the records for review, an appointment to view the records should be made by the requestor. A request to inspect public records in the custody of the District must be in writing and must describe the records with sufficient specificity to enable the District to identify the information sought.

Records that are exempt from the Public Records Act and records claimed to contain trade secrets will be handled in the manner described in Subsection C. If a delay occurs, the requestor will be notified of the reasons and offered the option of either viewing that portion of the record that is available, or waiting until the complete record is available.

The Board Clerk, or a designated representative, will be available to assist the requestor during the inspection. The requestor will be provided with the records and a work space. The Board Clerk or the designated representative will ensure that no records are removed or altered. If the requestor asks for photocopies or the electronic record of certain records, the Board Clerk will arrange for the copies and/or the electronic records to be provided to the requestor within 10 business days. The following requirements regarding fees will be applicable.

Request for Public Records in an Electronic Format

Per Government Code Section 6253.9. (a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record,

and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

Fees for Copies or Electronic Format of Public Records

There is no fee for less than 10 pages of public records. For 10 or more pages, the fee is 25 cents per page for all pages, including the first 9. Staff time will not be charged for providing copies or electronic format of existing identifiable documents.

The Public Records Act requires "payment of fees covering direct costs of duplication, or a statutory fee, if applicable." Gov. Code Sec. 6257. If the charges are estimated to exceed \$50, the requestor will be notified before the Board of Directors office begins processing the request. If the costs will exceed \$200, the District will require advance payment before the copies are made. In all other cases, the District Administrative Office will submit an invoice for any remaining charges.

V. **RESPONSIBILITIES**

District Administrative Office

The District Administrative Office will have primary responsibility for coordinating the District's compliance with the California Public Records Act. That responsibility includes:

1. Receiving, logging, and tracking all requests for public records;
2. Sending copies of requests to all applicable divisions within one business day;
3. Assisting the public in understanding what information is available, and what must be done to obtain access to, or copies of, public records;

4. Ensuring that the District Counsel's Office and have reviewed the request if necessary and provided their comments as to whether the requested records may be released;
5. Requesting and obtaining the required information from the appropriate division(s);
6. If a record has been identified as a trade secret or appears to be confidential, follow the procedures outlined above dealing with trade secrets;
7. Providing the necessary notices and public records within the appropriate periods as outlined in these guidelines;
8. Ensuring that all records are safeguarded.
9. Making sure that all originals of records are returned to the appropriate divisions as soon as possible; and
10. Ensuring that requests from the media are coordinated with the Marketing Department.

The approved records will be provided within five business days of the receipt of the request, unless the volume of the material warrants additional time.

If additional time is necessary, the District Administrative Office will inform the requestor of the revised scheduled and will be responsible for transmitting the copies to the requestor.

District Counsel

The District Counsel's Office will be responsible for providing legal guidance in determining which records may be released under the Public Records Act. The District Administrative Office shall provide District Counsel with those documents that are alleged to be trade secrets or exempt from the Public Records Act. In addition, the District Administrative Office will immediately provide District Counsel with all correspondence relating to the justification of exempt or trade secret status. The District Administrative Office will then be responsible for maintaining in a separate file those records which may not be released, and for releasing the remaining records pursuant to these guidelines.

"These guidelines, procedures, or policies herein do not represent the only medically or legally acceptable approach, but rather are presented with the recognition that acceptable approaches exist. Deviations under appropriate circumstances do not represent a breach of a medical standard of care. New knowledge, new techniques, clinical or research data, clinical experience, or clinical or bio-ethical circumstances may provide sound reasons for alternative approaches, even though they are not described in the document."