

SOUTHWEST SUBURBAN SEWER DISTRICT PUBLIC RECORDS ACT RULES

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Section 1. Authority and purpose.

A. RCW 42.56.070(1) requires the District to make available for inspection and copying nonexempt "public records" in accordance with published rules. The Public Records Disclosure Act ("Act") defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by a government. RCW 42.56.070(2) requires the District to set forth "for informational purposes" every law, in addition to the Act, that exempts or prohibits the disclosure of public records held by the District.

B. The purpose of the "Southwest Suburban Sewer District Public Records Act Rules" ("Rules") is to establish the procedures that the District will follow to provide full access to public records. These Rules provide information to persons wishing to request access to public records of the District and establish processes for both requestors and District staff that are designed to best assist members of the public in obtaining such access.

C. The purpose of the Act is to provide the public full access to information concerning the conduct of government, while balancing individuals' privacy rights and the desirability of the efficient administration of government. The Act and these Rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the District will be guided by the provisions of the Act describing its purposes and interpretation.

D. Except where these Rules are mandated by statute, the guidelines in this policy are discretionary and advisory only and shall not impose any affirmative duty on the District. The District reserves the right to apply and interpret this policy as it sees fit, and to revise or change the policy at any time. Failure to comply with any provision of this policy shall not result in any liability imposed upon the District other than as set forth in the Act.

Section 2. Definitions.

District. Southwest Suburban Sewer District, including any departments or board of the District.

Identifiable record. An identifiable record is one in existence at the time the public records request is made and that District staff can reasonably locate.

Public record. A writing, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or proprietary function, prepared, owned, used or retained by the District.

Writing. Broadly defined, a writing means handwriting, typewriting, printing, photostating, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; papers; maps; magnetic or paper tapes; photographic films and prints; motion picture, film and video recordings; magnetic or punched cards; discs, drums, and diskettes; sound recordings; and other documents including data compilations from which information may be obtained or translated. An e-mail is a "writing."

E-mail. Electronic mail is an informational transfer system that uses computers for sending and receiving messages. Classification of e-mails as public records is dependent on the content of the message. E-mail messages are public records when they are created or received in the transaction of public business and retained as evidence of official actions.

Public Records Officer. The District General Manager is the public records officer for the District. The public records officer will coordinate responses to public records requests with the departments, and oversee compliance with the Act, but may designate other District staff members to process requests for public records.

Exempt record. An exempt record includes all District records that are specifically exempted or prohibited from disclosure by state or federal law, either directly in Chapter 42.56 RCW or other statutes.

Section 3. Contact information – Public records officer.

A. The District is a municipal corporation of the State of Washington. The District's main office is located at: 17840 Des Moines Memorial Drive S, Burien WA, 98148.

B. Any person wishing to request access to public records of the District, or seeking assistance in making such a request, should contact the District's General Manager who serves as the public records officer of the District:

Southwest Suburban Sewer District
Attention: General Manager
17840 Des Moines Memorial Dr. S
Burien, WA 98148

Telephone: (206) 244-9575
Fax: (206) 433-8546

Information is also available at the District website at <http://www.swssd.com>.

C. The public records officer will oversee compliance with the Act, but other District staff members or independent contractors may process requests. Therefore, in these Rules the “public records officer” includes any designee of the District General Manager. The public records officer and the District will provide the "fullest assistance" to requestors; maintain a basic inventory of certain public records; ensure that public records are protected from damage or disorganization; and prevent responses to public records requests from causing excessive interference with essential functions of the District.

Section 4. Availability of public records.

A. Public records are available for inspection and copying during the normal business hours of the public records officer, which are Monday through Friday, 7:30 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the address listed in Section 3 above, unless another location is designated for a particular request by the public records officer.

B. Due to the small size of District staff, maintaining an index of public records as provided for in RCW 42.56.070(3) would be unduly burdensome, costly, and would interfere with the District’s operations due to the number and complexity of records generated as a result of the wide range of the District’s activities. The District, however, maintains an index of resolutions adopted by the District Board of Commissioners, which may be accessed by requesting them from the public records officer.

C. The District will maintain its records in a reasonably organized manner. The District will take reasonable actions to protect records from damage and disorganization. A requestor shall not take District records from the District’s office, or from a location designated by the public records officer, without the permission of the public records officer. A variety of records are available on the District’s website. Requestors are encouraged to view the documents available at no cost on the District’s website prior to submitting a public records request.

D. Any person wishing to inspect or copy public records of the District should make the request in writing on the District public records request form, or by letter, fax or e-mail addressed to the public records officer, which request shall include the following information:

1. Name of requestor;
2. Address of requestor;
3. Other contact information, including telephone number and any e-mail address;
4. Identification of the public records adequate for the public records officer to locate the records; and
5. The date and time of day of the request.

The District shall accept requests received in person during normal business hours. The District’s request form shall be made available to requestors who wish to complete requests in person. Completed forms will be routed to the public records officer.

E. If the requestor wishes to receive photocopies or electronically produced copies of the records instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or to make a deposit.

F. The public records officer may accept requests for public records that contain the above information by telephone, email, or in person. If the public records officer accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

G. A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by the District is not a valid request for identifiable records. However, a request for all records regarding a particular topic or containing a particular keyword or name is not considered a request for all of the District's records.

H. The District may deny a bot request that is one of multiple requests from the requestor to the District within a twenty-four hour period, if the District establishes that responding to the multiple requests would cause excessive interference with other essential functions of the District. For purposes of the policy, "bot requests" means a request for public records that the District reasonably believes was automatically generated by a computer program or script.

I. An oral request for records does not memorialize the exact records sought and therefore prevents a requestor or the District from later proving what was included in the request. Furthermore, as described in WAC 44-14-04002(1), a requestor must provide the District with reasonable notice that the request is for the disclosure of public records; oral requests, especially to District staff other than the public records officer or designee, may not provide the District with the required reasonable notice. Therefore, requestors are strongly encouraged to make written requests. If the District receives an oral request, the District public records officer or other staff person receiving it should immediately reduce it to writing and then verify in writing with the requestor that it correctly memorializes the request.

J. A requestor need not state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive documents, the public records officer may inquire about the nature or scope of the request. If the request is for a list of individuals, the public records officer may ask the requestor if they intend to use the records for a commercial purpose. The District is prohibited by statute from disclosing lists of individuals for commercial purposes. RCW 42.56.070(8).

Section 5. Processing of public records requests — General.

A. These Rules identify how the District will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the District, provide fullest assistance to requestors, and provide the most timely possible action on public records requests. All assistance necessary to help requestors locate particular responsive records shall be provided by the public records officer, provided that the giving of such assistance does not unreasonably disrupt the daily operations of the District.

B. The public records officer will process requests in the order allowing the most requests to be processed in the most efficient manner. Upon receipt of a request, the District will assign the request a tracking number and log it in. The public records officer or designee will evaluate the request according to the nature of the request, volume, and availability of requested records.

C. Following the initial evaluation of the request as described in Section 4.B, and within five (5) business days of receipt of the request, the public records officer will do one or more of the following:

1. Make the records available for inspection or copying;
2. Provide the record in either photocopy or electronically produced format;
3. Provide an internet address and link on the District's website to the specific records requested, except that if the requestor notifies the District that he or she cannot access the records through the internet, then the District will provide copies of the record or allow the requestor to view copies using a District computer;
4. Acknowledge receipt of the request and provide a reasonable estimate of when records will be available;
5. Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of time the District will require to respond to the request if it is not clarified;
or
6. Deny the request.

D. Clarification of requests may be requested and provided orally (e.g. by telephone or in person) or in writing. The public records officer may revise the estimate of when records will be available. If the requestor fails to respond to a request for clarification and the entire request is unclear, the District need not respond to it. The District will respond to those portions of a request that are clear. The District may take additional time to provide the records or deny the request if it is awaiting clarification.

E. If the District does not respond in writing within five (5) business days of receipt of the request for disclosure, the requestor should contact the public records officer to determine the reason for the failure to respond.

F. If the requested records contain information that may affect the rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Upon receipt of a request seeking information contained exclusively in an employee's personnel, payroll, supervisor, or training file, the public records officer must provide notice to the employee, any union representing the employee, and the requester. Such notice must state the date of the request, the

nature of the requested record, that the District will release any non-exempt records at least ten (10) days from the date of the notice, and that the employee may seek to enjoin release of the records.

G. Some records are exempt from disclosure, in whole or in part. If the District believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

H. Consistent with other demands, the District shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes to have copied using a mutually agreed upon non-permanent method of marking the desired record.

I. The requestor must claim or review the assembled records within thirty (30) days of the District notification to him or her that the records are available for inspection or copying. The District will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the District to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the District may close the request and re-file the assembled records.

J. After inspection is complete, the public records officer shall make the requested copies or arrange for copying. Where the District charges for copies, the requestor must pay for the copies. If requested, the District will provide a summary of the applicable charges before any copies are made. The requestor may then revise the request to reduce the number of requested copies. For large requests, the District may ask the requestor to prioritize the request so the District can provide the most important records first.

K. When the request is for a large number of records, the public records officer will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty (30) days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer may stop searching for the remaining records and close the request.

L. When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that the District has completed a reasonable search for the requested records and made any located nonexempt records available for inspection.

M. When the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to fulfill the requestor's obligations to inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public

records officer shall close the request and indicate in writing to the requestor that the District has closed the request. The closing letter will include information on how the request was fulfilled and why the District is closing the request, a statement informing the requestor that the statute of limitations to seek judicial review has started to run because the District does not intend to further address the request, and that the requestor may ask follow-up questions within a reasonable time frame as specified by the District. If the requestor asks timely follow-up questions, the District may search for additional records but is not required to do so. If the requestor asks follow-up questions and the District does not intend to further address the request, the District will explicitly inform the requestor of its intent and will reiterate that the statute of limitations has started to run.

N. If, after the District has informed the requestor that it has provided all available records, the District becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

O. The District, and its officials and employees are not liable for loss or damage based on release of a public record if the District official or employee acted in good faith in attempting to comply with the Act.

P. The District is not obligated to create a new record to satisfy a records request; however, the District may, in its discretion, create such a new record to fulfill the request where it may be easier for the District to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request.

Q. The District is not obligated to hold current records requests open to respond to requests for District public records that may be created in the future. If a public record is created or comes into the possession of the District after a request is received by the District, it is not responsive to the request and will not be provided. A new request must be made to obtain later-created public records.

Section 6. Processing of public records requests - Electronic records.

A. The process for requesting electronic public records is the same as for requesting paper public records.

B. When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the District and is generally commercially available, or in a format that is reasonably translatable from the format in which the District keeps the record.

Section 7. Exemptions.

The Act provides that a number of categories of public records are exempt from public inspection and copying. In addition, the Act provides that certain public records may be exempt from disclosure if any other statute or law exempts or prohibits disclosure. For informational

purposes only, the District has set forth a list of applicable exemptions below. This list is not inclusive or exhaustive of all exemptions. The District's failure to list an exemption below shall not affect the efficacy of any exemption. RCW 42.56.070(2). Requestors should be aware that the following exemptions may restrict the availability of inspection or copying of some public records, or portions thereof.

- (1) Personal information: Personal information in files maintained for employees and appointed or elected officials of the District to the extent disclosure would violate their right to privacy; and financial information including credit card numbers, debit card numbers, electronic check numbers, card expiration dates, and bank or other financial account numbers. RCW 42.56.230.
- (2) Employment and licensing: Applications for public employment and related materials submitted with respect to an applicant; examination information (test questions, scoring keys and other data used to administer a license, employment or academic examination); personal contact information in files maintained for District employees or volunteers, and their dependents (address, telephone number, email address, social security number, emergency contacts and date of birth); any employee's name or other personally identifying information including, but not limited to, birthdate, job title, addresses of work stations and locations, work email address, work phone number, bargaining unit, or other similar information, if the employee has provided both a sworn statement that the employee or a dependent of the employee is a survivor of domestic violence and proof to the District of participation in an address confidentiality program; GPS data that indicates a District employee's residence location; and voluntarily submitted information that identifies a District employee's personal demographic details. RCW 42.56.250.
- (3) Real estate appraisals: Real estate appraisals made for or by the District relative to the acquisition or sale of property until the project is abandoned or sold, except disclosure may not be denied for more than three years after the appraisal. RCW 42.56.260.
- (4) Financial, commercial and proprietary information: Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by the District within five years of the request for disclosure when disclosure would produce private gain and public loss. RCW 42.56.270.
- (5) Preliminary drafts, notes, recommendations and interagency memorandums: Records in which opinions are expressed or policies formulated or recommended, except if the opinion or policy is implemented or the record is publicly cited in connection with District action. RCW 42.56.280.
- (6) Work product: Records which are relevant to a controversy to which the District is a party but which records would not be available to another party under the rules of pretrial discovery for Superior Courts. RCW 42.56.290.

- (7) Public utilities information: Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095; and records containing the residential addresses and residential telephone numbers of District customers. RCW 42.56.330.
- (8) Security: Records assembled or prepared to prevent, mitigate or respond to terrorist acts, the disclosure of which would have a substantial likelihood of threatening public safety; specific and unique vulnerability assessments or emergency response plans and records containing information regarding the infrastructure and security of computer and telecommunications networks. RCW 42.56.420.
- (9) Attorney-client privileged information: Records reflecting communications transmitted in confidence between the District and its attorney for the purposes of legal advice. RCW 42.56.070(1); RCW 5.60.060(2)(a).
- (10) Medical records: Medical records in employee personnel files. Chapter 70.02 RCW.
- (11) Trade secrets: Records containing trade secrets of businesses the District regulates. Chapter 19.108 RCW.

The Act and other statutes contain hundreds of exemptions from disclosure and it is not practical for the District to list each exemption. Therefore, the District adopts by reference the exemptions from public disclosure contained in the law and other statutes, as set forth in Appendix C: Exemptions and Prohibition Statutes Not Listed in Chapter 42.56 RCW to “Public Records Act for Washington Cities, Counties, and Special Purpose Districts,” Municipal Research and Services Center, 2019, as may be amended from time to time, a copy of which is maintained in the District’s business office.

Section 7. Costs of providing copies of public records.

A. There is no fee for inspecting public records, including inspecting records on the District’s website.

B. The District has determined it would be unduly burdensome to calculate actual costs for copying because the District does not have the resources to determine actual copying costs for all its records, to conduct such a study would interfere with other essential District functions, and through the legislative process, the public and requestors have commented on and been informed of authorized fees and costs provided in the Act, including RCW 42.56.120 and other laws. Therefore, in order to timely implement a fee schedule consistent with the Act, it is more cost efficient, expeditious, and in the public interest for the District to adopt the state legislature’s approved fees and costs for most of the District’s records, as authorized in RCW 42.56.120 and as published in the District’s fee schedule, and available on the District’s website. The District will periodically update its fee schedule for the copying of records in non-standard, formats or media. Statutory default charges include the actual costs of long distance facsimile transmission, digital storage media, mailing containers, and postage.

C. The District may waive charges associated with fulfilling a request. The decision will be based on various factors, including the volume and format of the responsive documents. The decision to assess fees for fulfilling a public records request shall be made on a consistent and equitable basis, dependent primarily upon the amount of staff time required for copying, scanning, shipping, uploading, and/or transmitting the records associated with fulfilling a request.

D. If the public records officer determines that an off-site vendor can make copies more quickly and less expensively than the District, or if the District has to pay an off-site vendor for copying public records in non-standard formats, including but not limited to photographs, scanning, blueprints or audio recordings, the requestor shall pay the actual costs of such duplication. If an off-site vendor is used, the District may: (1) arrange for the requestor to pay the vendor directly for copies made; or (2) charge the requestor the actual amount charged by the off-site vendor to the District for the copies made.

E. Before beginning to make the copies, the public records officer may require a deposit of up to ten percent (10%) of the estimated costs of copying all the records selected by the requestor including a customized service charge. The public records officer may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The District will not charge sales tax when it makes copies of public records. Any unused deposit will be refunded to the requestor.

F. Payment shall be made by cash, check, or money order to the District.

Section 9. Review of denials of public records.

A. Promptly after initial denial or partial denial of a records request, the requestor may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer denying the request.

B. The public records officer shall promptly provide the petition and any other relevant information to the District attorney. The District attorney will immediately consider the petition, and provide the requestor a written determination of whether the denial is affirmed or reversed within two (2) business days following the District's receipt of the petition, or within such other time as the District and the requestor mutually agree to. Nothing in this section shall be deemed to establish an attorney-client relationship between the District attorney and the requestor.

C. The requestor may obtain court review of denials of public records requests pursuant to RCW 42.56.550 after the initial denial, regardless of any internal administrative appeal.

Section 10. Retention of Records.

The District shall retain its records in accordance with retention schedules approved by the State Local Records Committee. Public records may not be destroyed per retention schedule if a public records request or actual or anticipated litigation is pending.