

COUNTY OF MARIN

4. PUBLIC RECORDS ACT

Public Records Act

The Public Records Act mandates that:

“Public Records are open to inspection at all times during the office hours of a State or local agency and every citizen has the right to inspect any public record, except as hereafter provided.”

This is the heart of the Public Records Act. There are exceptions, and all fall within one of these four categories:

Specific qualified exceptions (exemption must be demonstrated). Examples include:

- Internal, short-lived paperwork such as preliminary drafts, notes and memos not retained as the normal course of business by the agency.
- Pending litigation material
- Personal privacy data, such as personnel, medical or similar files.

Specific categorical exceptions

Certain kinds of material are categorically exempt from disclosure requirements of the Public Records Act that the agency may withhold without further demonstration. The example most relevant to government is testing and scoring keys from employment material.

Disclosures otherwise prohibited or discretionary

Other statutes prohibit release of certain privileged information, or give the agency discretion whether to disclose. Confidentiality statutes protect, for example:

- Adoption records
- Certain prison records
- Peace officer personnel records
- Mental health records
- Attorney-client communications
- Welfare records
- Death in custody reports
- Real property change-in-ownership statements
- Certain workers' compensation awards and info.

Disclosures against the public interest

Recognizing that it could not anticipate all the possible situations in which the release of a particular record to the public might cause serious harm to an interest which government is obligated to protect, the legislature made a provision to be invoked where such harm is foreseen but no applicable special exception to the disclosure rule exists. In applying the “balancing test,” the public agency is authorized to withhold by showing that in a particular case, the public interest served by not releasing the record clearly outweighs that interest served by disclosure.

For further detail, the full text of the Public Records Act, or advice on application in a particular instance, contact your legal department.

From "The Media Survival Pocketbook" by Marty Boyer

What to do upon receipt of request for public records

Immediately send request to legal counsel for review, as generally the County must respond to a request within 10 days after receipt.