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POLICY TITLE: ACCESS TO PUBLIC RECORDS
POLICY NUMBER: 1050

COMMITTEE APPROVAL DATE: 11/16/2020 **WRITTEN/REVISED BY:** T. BAKALY
BOARD APPROVAL DATE: 12/16/2020 **SUPERSEDES:** 07/22/2015

POLICY:

1050 It is the policy of the Board of the Beach Cities Health District (“District”) to encourage public participation in the governing process and to provide reasonable accessibility to all public records except those documents that are exempt from disclosure by express provisions of law or considered confidential or privileged under the law, in accordance with The California Public Records Act (Government Code, section 6250 et seq.).

GUIDELINES:

1050.1 The following Guidelines and referenced procedures shall govern the accessibility for inspection and copying of all of the public records of the Beach Cities Health District. These guidelines are to be administered by the Chief Executive Officer of the District.

1050.2 Purpose of Guidelines

The purpose of these guidelines is to serve as general rules to be followed by those persons charged with administration of the Procedures for Inspection and Copying of the Public Records of the Beach Cities Health District. Certain requirements of law must be observed relating to disclosure of records and to the protection of the confidentiality of records. These Guidelines set forth the general rules contained in such laws.

1050.3 Definitions

1050.3.1 “Person” includes any natural person, corporation, partnership, firm or association.

1050.3.2 “Public records” includes any writing containing information relating to the conduct of the business of the Beach Cities Health District prepared, owned, used or retained by the District regardless of physical form or characteristics.

1050.3.3 “Writing” means handwriting, typewriting, printing, certain electronic communications, photocopying, photographing, photostating, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored, and all papers, maps, magnetic or paper tapes, photographic films and prints, and other documents.

1050.4 Questions of Interpretation

1050.4.1 In case of any question as to the accessibility of the records of the District under these Guidelines, records should not be made accessible to the public until such Question has been determined by the Chief Executive Officer of the District. The decision of such officer is final unless overruled by the Board of Directors.

1050.4.2 The District shall justify the withholding of any record by demonstrating that the record requested and withheld is exempt under Paragraph **1050.6** of these Guidelines, or that on the facts of the particular case, the public interest served by not making the record public outweighs the public interest served by the disclosure of such record.

1050.4.3 In the case of any denial of an Application for Inspection or Copying of Records, the District shall notify the applicant of the decision to deny the application for records and if someone other than the District's Chief Executive Officers denies records, the District shall set forth the names and positions of each person responsible for the denial of the request.

1050.5 Following Procedures for Inspection and Copying

1050.5.1 The Procedures referred to shall be followed in all of their specifics at all times. Records of inspections shall be accurately maintained.

1050.5.2 District shall redact social security numbers from records before disclosing them to the public.

1050.5.3 All requests for public records shall be in writing.

1050.5.4 Staff will respond to all requests as soon as possible after they are received, but not later than the 10-day period, or extensions thereof, provided by Government Code Section 6253.

1050.5.4.1 Staff shall review each request and determine whether it seeks identifiable records and, if not, staff shall help the requestor identify records responsive to the request.

1050.5.4.2 Staff shall request all Directors who may have the records requested to search their files and report whether they have the records and, if so, when the records can be made available to the requestor.

1050.5.4.3 Staff shall respond to the requestor, advising him or her in writing of the availability of the documents, a description of the medium (paper electronic format, etc.) and location of the records, and whether any are exempt from disclosure under the Public Records Act. As the Public Records Act required, to the extent feasible, staff will provide suggestions to overcome any practical basis for denying access to the records sought.

1050.5.5 In accordance with the Public Records Act, the administrative staff will

provide specific, identifiable records but will not research records for particular types of information or analyze information which may be contained in public records.

1050.5.6 Administrative staff will respond to requests for public records in accordance with the Public Records Act as the Act now exists or may hereafter be amended, and nothing in this Policy is intended nor shall it be construed to conflict with the terms of the Public Records Act.

1050.6 Records Subject to Inspection

All public records of the District are subject to inspection pursuant to these Guidelines except as follows:

1050.6.1 Records set forth hereinafter as records subject to inspection only with authorization;

1050.6.2 Records NOT SUBJECT to inspection (unless by Court order); or

1050.6.3 Records that may be withheld by exercise of discretion.

1050.7 Waiver of Exemption

If the District discloses a public record that is otherwise exempt from disclosure under the California Public Records Act or Health Insurance Portability and Accountability Act (HIPAA), the disclosure may constitute a waiver of the exemption otherwise applicable to such record.

1050.8 Records Subject to Inspection Only with Authorization

Any records relating to clients of the Beach Cities Health District (including but not limited to the client's records of admission and discharge, medical treatment, diagnosis and other care and services) shall only be made available for inspection and/or copying under the following conditions:

1050.8.1 Upon presentation of a written authorization therefore signed by an adult client, by the guardian or conservator of his person or estate, or, in the case of a minor, by a parent or guardian of such minor, or by the personal representative or an heir of a deceased patient or client, and then only upon the presentation of the same by such person above-named or an attorney-at-law representing such person

1050.8.2 Upon presentation of a written order therefore issued by a Court of the State of California or of the United States of America (see reference to Subpoena Duces Tecum hereinafter) that specifically commands the District to disclose specified records.

1050.8.3 Any such records made available must be in compliance with Health Insurance Portability and Accountability Act (HIPAA).

1050.9 Records Not Subject to Inspection (Unless by Court Order)

The following Records of the District are not subject to inspection by any person without a written order therefore issued by a Court of the State of California or of the United States of America (see reference to Subpoena Duces Tecum hereinafter):

1050.9.1 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 I of the Government Code of California, until such litigation or claim has been finally adjudicated or otherwise settled.

1050.9.2 Personnel, medical or similar files of non-clients, the disclosure of which would constitute an unwarranted invasion of personal privacy of the individual or individuals concerned.

1050.9.3 Records of complaints to or investigations conducted by, or investigatory or security files compiled by the District for correctional, law enforcement or licensing purposes.

1050.9.4 Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment or academic examination.

1050.9.5 The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the District relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired and all contract agreements obtained.

1050.9.6 Confidential documents relating to trade secrets of the District. Trade secrets are of unique value to the District, are important to the functioning of District plans and are considered to be confidential documents.

1050.9.7 Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code of California relating to privilege. (Privileges are conditionally provided for all communications between lawyer and client, physician and patient and psychotherapist and patient).

1050.9.8 Preliminary drafts, notes, or inter-district, intra-district or other memoranda, between districts, departments of the District, and/or other agencies, which are not retained by the District in the ordinary course of business, and provided that the public interest in withholding such records outweighs the public interest in disclosure.

1050.9.9 Records in the custody of or maintained by legal counsel to the District.

1050.9.10 Statements of personal worth or personal financial data required by any licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualifications for the license, certificate or permit

applied for.

1050.9.11 Records of state agencies related to activities governed by Articles 2.6, 2.8, and 2.91 of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, pertaining to MediCal provider contracting, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of healthcare services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice or training to employees.

1050.9.12 An information security record of District, if, on the facts of the particular case, disclosure of that record would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of District.

1050.9.13 The collection of private industry wage data for salary purposes, when such data is supplied under contract by the Bureau of Labor Statistics, shall remain confidential and the identity of the employers shall not be open to the public.

1050.9.14 Computer software developed by the District is not, in itself a public record. The District may sell, lease, or license the software for commercial or noncommercial use. Any computer software that might be developed by the District is entitled to copyright protection and need not be disclosed as a public record. However, information stored in a computer does not necessarily become confidential because of this Section.

1050.9.15 Any other records of the District that are not required to be disclosed pursuant to the California Public Records Act or other applicable statute as such statutes may be amended from time to time.

1050.10 Discretionary Withholding of Records

In addition to the limitations upon disclosure of records set forth in these Guidelines, the District may, in its discretion, withhold inspection of any record or writing when the District determines that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. The District may further withhold inspection of records or writings if, based on the facts and circumstances, the District determines that the request or requests would impose an unreasonable burden on the District, which, based on existing case law, would legally justify withholding the writings or records. Such discretion shall be exercised by the District by and through the Chief Executive Officer or his or her designee, whose decision shall be final unless overruled by the Board of Directors.

1050.11 Compliance with Subpoena Duces Tecum

Upon receipt, the Subpoena Duces Tecum (a notice to appear and to bring records, or to produce records without appearance) should be forwarded to the Chief Executive Officer.

While a Subpoena Duces Tecum is issued by a court, it is not an order of the court declaring that the particular records are subject to disclosure. Such records may still be subject to protection against disclosure by reason of the existence of a privilege or other legal excuse. Therefore, receipt of such a subpoena does not permit disclosure of records in and of itself and the following rules should be followed:

1050.11.1 Subpoena in action where District is a party:

Immediately consult with legal counsel representing the District as to the proper response.

1050.11.2 Subpoena in other actions:

1050.11.2.1 If the records sought to be discovered (which are ordered to be produced) fall within one of the categories in Paragraphs **1050.8**, **1050.9** or **1050.10** above, consult with the District's counsel prior to responding to the subpoena.

1050.11.2.2 If the records sought to be discovered are those that can be inspected, it is sufficient compliance with the subpoena (if it seeks only records and does not specify that "testimony" or "examination upon such records" will be required) to deliver a copy by mail or otherwise, following the procedure set forth in Exhibit "I" attached hereto.

1050.11.3 If only a portion of the records may be disclosed or inspected:

If only portions of any requested records may be disclosed or inspected, the disclosable portions should be segregated from the non-disclosable portions, and the segregated non-disclosable portions should be withheld unless and until a court orders their production.