

## Release of Records

### 801.1 PURPOSE AND SCOPE

This policy establishes guidelines for the public to inspect and obtain copies of public records (Wis. Stat. § 19.31 et seq.).

Inspection and release of records with protected health information is covered in the Patient Medical Record Security and Privacy Policy.

### 801.2 POLICY

The Oshkosh Fire Department is committed to providing public access to records consistent with the Wisconsin Public Records Law.

### 801.3 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any member who receives a request for records shall route the request to the Custodian of Records or the authorized designee.

#### 801.3.1 REQUESTS FOR RECORDS

The processing of requests for records is subject to the following:

- (a) Requests may be made orally or in writing and shall reasonably describe the requested record or the information requested (Wis. Stat. § 19.35(1)(h)).
- (b) The Custodian of Records or authorized designee shall determine if the requested record is available and/or subject to any exemption from disclosure by law (Wis. Stat. § 19.35(1)).
- (c) Requested records shall be produced or the request shall be denied in whole or part as soon as practicable and without delay (Wis. Stat. § 19.35(4)).
  1. If the record request is made orally and denied, the denial may be made orally unless a demand for a written statement for the reasons denying the request is made within five business days of the oral denial.
  2. If a written request is denied in whole or part, the requestor shall be provided a written statement of the specific reasons for denying the request and that the denial is subject to review by mandamus by a court or upon application to the attorney general or district attorney.
- (d) The Department is not required to create records which do not exist (Wis. Stat. § 19.35(1)(L)).
- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released (Wis. Stat. § 19.36(6)).
  1. A copy of the redacted release should be maintained as evidence of what was actually released and should document the reasons for the redactions.

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- (f) The requesting party should be required to pay in advance any established fees in excess of five dollars for each record sought and as authorized by law (Wis. Stat. § 19.35(3)).
- (g) The requestor shall be provided copies of records that are substantially as readable as the original (Wis. Stat. § 19.35(1)(b)).
- (h) A requestor who requests a record that is an audio recording shall be provided a copy of the recording substantially as audible as the original or if requested, a transcript of the recording (Wis. Stat. § 19.35(1)(c)).
- (i) A requestor who requests a record that is a video recording shall be provided a copy of the recording substantially as good as the original (Wis. Stat. § 19.35(1)(d)).
- (j) A requestor who requests a record that is not in a readily comprehensible form shall be provided a copy of the information contained in the record assembled and reduced to written form on paper (Wis. Stat. § 19.35(1)(e)).

#### 801.3.2 RECORDS INVOLVING THE REQUESTOR

If a request is received from an individual or a person authorized by the individual who identifies him/herself and states that the purpose of the request is to inspect or copy a record containing personally identifiable information of the requestor, the request shall be granted or denied access in accordance with Wis. Stat. § 19.35(1)(am) and Wis. Stat. § 19.35(4)(c)).

#### 801.4 FEES

Fees may be charged for locating and copying records as follows:

- (a) Costs shall be calculated not to exceed the actual, necessary and direct cost of reproduction and Council may by resolution establish basic costs and fees for the provision of records in typical formats.
- (b) If the form of a written record does not permit copying, the actual and necessary cost of photographing or otherwise reproducing and processing shall be charged.
- (c) The actual full cost of providing a copy of records not in printed form on paper, such as films, computer printouts and audio or video-tapes, shall be charged.
- (d) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
- (e) There shall be no charge for locating a record unless the actual cost therefor exceeds \$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
- (f) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment if such estimate exceeds \$5.00.
- (g) Elected and appointed officials of the City of Oshkosh shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
- (h) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

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#### **801.5 RELEASE RESTRICTIONS**

Examples of records with release restrictions include:

- (a) Patient Care Reports (PCRs) (45 CFR 164.502; Wis. Stat. § 146.82) (see the Patient Medical Record Security and Privacy Policy).
- (b) Confidential patient information contained in any record prepared by the Department as provided in Wis. Stat. § 256.15(12).
- (c) Personal information contained in personnel or similar files, including but not limited to home address and telephone number, home electronic mail address and Social Security number, unless the member authorizes access to such information or release is authorized by law (Wis. Stat. § 19.36(10)(a)).
- (d) Records rendered confidential by the attorney-client privilege (Wis. Stat. § 905.03).
- (e) Legal advice as to pending or probable litigation (Wis. Stat. § 19.85(1)(g)).
- (f) Fire Reports will be processed using the electronic software system and routed to the Risk Reduction Bureau Chief for their review.
- (g) Arson investigations as allowed by law (Wis. Stat. § 19.36(2)).
- (h) Disciplinary investigations of a possible criminal offense or possible misconduct connected with employment prior to the disposition of the investigation (Wis. Stat. § 19.36(10)(b)).
- (i) Test questions, scoring keys and other examination data used to administer an examination for employment except an examination score if access to that score is not otherwise prohibited (Wis. Stat. § 19.36(10)(c)).
- (j) Information relating to one or more specific members that is used by the Department for staff management planning, including performance evaluations, judgments or recommendations concerning future salary adjustments or other wage treatments, management bonus plans, promotions, job assignments, letters of reference or other comments or ratings relating to members (Wis. Stat. § 19.36(10)(d)).
- (k) Records where disclosure is exempt or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
- (l) Records that relate to archeological site information (Wis. Stat. § 44.02(23)).
- (m) Any record which is specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law is exempt from disclosure under Wis. Stat. § 19.35(1), except that any portion of that record which contains public information is open to public inspection as provided in Wis. Stat. § 19.36(6).

#### **801.5.1 NOTIFICATION REQUIREMENTS FOR PERSONNEL RECORDS**

If a personnel record, or any portion thereof, containing personal information is released, the Department shall notify the affected member before access is granted and within three days after making the decision to grant access (Wis. Stat. § 19.356(2)).

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Written notice shall be provided to a member pursuant to the requirements of Wis. Stat. § 19.356(2), and shall include a description of the record to be released and a description of the rights of the member to seek a court order to restrict release.

The Department shall not provide access to the requested record within 12 days of sending a notice to the member. If the member commences a court action, access to the requested record shall not be provided during pendency of the action, including any appeal or petition for review (Wis. Stat. § 19.356(5)).