

POLICY AND PROCEDURE	
TITLE: Public Records Act Requests	
DEPARTMENT: Compliance	POLICY #: CMP18
EFFECTIVE DATE: 09/01/15	REVIEW/REVISION DATE: 06/17, 11/18
COMMITTEE APPROVAL DATE: 09/15, 06/17 PRC: 02/2019 Compliance: 03/2019	RETIRE DATE:
PRODUCT TYPE: Medi-Cal	REPLACES:

I. PURPOSE

The Health Plan of San Joaquin (HPSJ) shall respond promptly to requests made under the California Public Records Act.

II. POLICY

- A. The HPSJ shall provide access to non-exempt, disclosable, public records in the custody and control of the HPSJ to any person requesting such records in accordance to California Public Records Act (PRA) (Government Code section 6250 et seq.).
- B. To ensure accuracy in responding to a request for public records, the HPSJ encourages that all requests be submitted in writing, by facsimile or by electronic mail. Requests may also be made orally, by telephone or in person at a public counter in one of our offices. Requestors do not need to disclose their identity, or why they want the records. For efficiency in processing requests, HPSJ encourages requestors to the HPSJ Request to Access health Information Form located at www.hpsj.com. A copy of the form may also be requested by mail, fax or a phone call at the following Toll Free 1(888) 936-PLAN (7526) or for Spanish Speakers the Toll Free number is 1(888) 312-PLAN (7526), Hearing Impaired (TTY/TDD) 711 or Fax (209) 942-6305.
- C. Access to records shall be immediate for a request to inspect on-site records, as reasonably practical. When copies of records are requested, HPSJ generally has 10 calendar days to inform the requestor whether or not it has the records that are responsive to the request- it is not required to fulfill the request within the 10 days.

D. Records Exempt from Disclosure by PRA (Government Code section 6254)

1. Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.
2. Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled
3. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
4. Records contained in or related to any of the following:
5. Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.
6. Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

7. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.
8. Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
9. Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.
10. Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

E. Fees for Copying Records (Government Code 6253(b)).

1. Cost of reproducing records may be charged as follows: Copies: \$0.30, CD: \$5.00 DVD: \$5.00 (Are these fees per page, per request?)
2. Special requests that require computer programming, perform data extraction, or construct a custom report: requestor can be charged for the actual cost of time HPSJ spends on the project, as well as the cost of any special supplies or services used. The internal cost of the IT developer rate will be based on the ongoing hourly rate at the time of the request. The fee is to be collected before HPSJ commences with work.

F. HPSJ shall not collect any fees for on-site inspection. Government Code Section 6253. Fees cannot be collected for HPSJ staff time to search, review or redact records pursuant to PRA requests.

III. PROCEDURE

- A. The Compliance and Privacy Officer (Compliance Officer) shall be responsible for processing and producing records responsive to PRA

requests.

1. Upon receipt of a PRA request, staff shall:
 - a. Log the request and the date received.
 - b. Determine, within 10 calendar days, whether the request is specific enough to determine if responsive records exist. Requests should be specific enough to enable identification, location, and retrieval of the public records sought. If more time is needed to determine whether or not responsive records exist, HPSJ must notify the requestor within the 10-day timeframe, then HPSJ has an additional 14 calendar days to determine whether responsive records exist.
 - c. If a request is not specific and focused, HPSJ staff will:
 - i. Assist the requester to identify public records that are responsive to the request or to the purpose of the request;
 - ii. Describe the information technology or physical location in which the public records exist, and;
 - iii. Provide suggestions for overcoming any practical barriers to disclosure of the public records sought. Required by Government Code Section 6253.1. HPSJ does not supplement responses to previous requests when new records are created or received. A separate request must be submitted each time records are sought.
 - d. Once responsive records are identified and located, determine if any of the records or portions of the record are exempt from disclosure or prohibited from disclosure and redact such information.
 - i. Cross reference request with Policy and Procedure (P&P) CMP02 Records Management and Retention. Records shall be maintained in accordance with P&P CMP02. Records that are no longer in possession of HPSJ are no longer “public records,” and HPSJ would inform the requestor that it does not have any records responsive to the request.
 - ii. HPSJ will not create a records in response to a PRA request or in order to produce documents pursuant to the request.
 - iii. If there are records that are response to a PRA request, but

if the records are not required or not allowed to be released, HPSJ must explain that the record is exempt from disclosure or that the public interest in keeping the record is exempt from disclosure or that the public interest in keeping the records confidential outweighs the public interest in disclosing the records In accordance with Government Code Section 6255.

- iv. Confidential information including social security numbers and other protected Health Information pursuant to **HIPAA should never be disclosed or released.**
- v. Exception to disclosure under the PRA allows HPSJ to avoid disclosing the rates of payment for health care services or the commission's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services for rates of payment, until three years after the agreement is executed.
- e. Once the records to be pulled are identified, inform the requestor of the cost of the copies (if any).
- f. Produce the full or redacted records that are responsive to the request with template letter indicating that the request has been fulfilled.
- g. Enter information to log that the request has been fulfilled with date, staff person assigned, etc.
- h. HPSJ must make records available by, electronic form, hardcopy, CD, or DVD in accordance with Government Code 6253.9(e).

2. On-site Inspection

- a. For On-Site inspections staff is not required to disrupt operations to allow immediate access, but a decision on whether or not to grant access right away or schedule a later time must be made promptly.
- b. HPSJ cannot limit hours for public inspection- all normal business hours must be open for inspection. If there is information that must be redacted prior to inspection, HPSJ shall inform the requestor and give a timeframe for when the records will be ready for inspection.
 - i. Requests for copies. If the request is unusual, voluminous,

located off-site, other extraordinary circumstances, then HPSJ must give notice within the 10 day calendar days that it needs an additional 14 calendar days to determine whether or not it has records that are responsive to the request (so maximum 24 calendar days to determine whether or not HPSJ has records responsive to the request in these extraordinary cases and provided HPSJ informed the requestor within the 10 day timeframe that it needed the additional 14 days). Government Code Sections 6253 (c), (d). The notice (informing the requestor whether or not HPSJ has records that are responsive to the request) must be in writing.

IV. ATTACHMENT(S)

A. HPSJ Request to Access Health Information Form.

V. REFERENCES

- A. 45 CFR Part §160 and §164 HIPAA
- B. California Government Code Section 6250 et seq.

VI. REGULATORY AGENCY APPROVALS

Not Applicable

VII. REVISION HISTORY

STATUS	DATE REVISED	REVISION SUMMARY
Revised	11/07/18	Updated P&P to place in new template and for clarity.