

## Release of Records

### 801.1 PURPOSE AND SCOPE

This policy establishes guidelines for the public to inspect and obtain copies of public records under the Freedom of Information Act (FOIA) (5 ILCS 140/1.1 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 Lemont Fire Protection District is committed to providing public access to records consistent with the Illinois Freedom of Information Act (FOIA) (5 ILCS 140/1.1 et seq.), balanced, however, by the limited exceptions recognized in the Act to safeguard individual privacy and the efficient operation of the District. The Fire Chief, Executive Assistant, and Administrative Assistant, who are hereby appointed the Lemont Fire Protection District's Freedom of Information Officers, shall ensure that the District complies with the Act through execution of the District's regulations adopted pursuant to this policy. A copy of this policy shall be posted on the Lemont Fire Protection District's website.

#### 801.2.1 DESCRIPTION OF DISTRICT

- (a) Lemont Fire Protection District, Cook, Dupage and Will Counties, Illinois, is a fire protection district organized pursuant to the Illinois Fire Protection District Act (70 ILCS 705/1) to provide fire protection and other emergency services to the residents of the District. The District's operating budget is comprised of tax collections for both fire and ambulance services along with grants, donations, and other of miscellaneous forms of revenue.
- (b) The Lemont Fire Protection District has four fire stations
  - 15900 New Avenue, Lemont, IL 60439 - Headquarters
  - 12940 S Bell Road, Lemont, IL 60439 - Station 2
  - 10801 Marmon Drive, Woodridge, IL 60517 - Station 3
  - 11520 Walker Road, Lemont, IL 60439 - Station 4
- (c) The Lemont Fire Protection District employs approximately 63 full time employees and 10 part time employees
- (d) The Fire Board of Trustees consisting of the following members governs the District
  - 
  - Joseph Falese
  - Raymond Negrete
  - Linda Bernacchi
  - Daniel Tholotowsky

# Lemont Fire Protection District

## Policy Manual

### *Release of Records*

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- Michael Smollen
- (e) The Firefighters' Pension Board consists of the following members
  - David Evers
  - Matthew Hipke
  - Linda Bernacchi
  - Ronald Lambert
  - Raymond Negrete
- (f) The Board of Fire Commissioners consists of the following members
  - John Bernacchi
  - George Rimbo
  - Jay Nickleski

### **801.3 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any member who receives a request for records shall route the request to the FOIA Officer or the authorized designee (5 ILCS 140/3.5).

#### **801.3.1 REQUESTS FOR RECORDS**

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

- (a) Upon receiving a request for records, the FOIA Officer shall document the date the request was received and compute the date on which the time to respond expires and note the date on the request. The FOIA Officer shall maintain an electronic or hard copy of the request, create a retention file for the request and promptly determine if the record is available or subject to any exemption (5 ILCS 140/3.5).
- (b) The FOIA Officer shall ensure that requests are processed within five business days after receipt (5 ILCS 140/3(d)), with up to an additional five days permitted for certain exceptions (5 ILCS 140/3(e)). When seeking additional time, written notice shall be given to the requesting party (5 ILCS 140/3(f)).
  - 1. These time frames may be extended for recurrent requesters (5 ILCS 140/3.2).
- (c) Requests for records to be used for commercial purposes shall be processed within 21 working days after receipt (5 ILCS 140/3.1).
- (d) If a record is requested in electronic format, the record shall be provided in electronic format, if reasonably feasible. If not reasonably feasible, the record shall be furnished in the format in which it is maintained or paper format at the option of the requestor. If furnishing an electronic copy, the District may charge for the actual cost of the recording medium (5 ILCS 140/6(a)).
- (e) The District is not required to create records that do not otherwise exist in order to accommodate any request (5 ILCS 140/1). However, existing records may be copied in such a manner as to provide the requesting party with the unrestricted portion of

# Lemont Fire Protection District

## Policy Manual

### Release of Records

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any record. The District may delete exempt information contained in records otherwise containing nonexempt material (5 ILCS 140/7).

- (f) Fees may be charged for the processing of requests as provided by in 5 ILCS 140/6.

#### 801.3.2 DENIALS

The denial of a request for records is subject to the following (5 ILCS 140/9):

- (a) A denial of a request by the FOIA Officer shall be provided to the requestor in writing and include:
  1. The specific reasons for the denial to include a detailed factual basis for the exemption claimed and, if denied based on an exemption under 5 ILCS 140/7, the citation to the supporting legal authority.
  2. The names and titles or positions of each person responsible for the denial.
  3. Information of the requestor's right to have the denial reviewed by the Public Access Counselor of the Illinois Attorney General's Office and the right to judicial review as provided in 5 ILCS 140/11.

Failure to respond in a timely manner to a request under the Illinois FOIA constitutes a denial (5 ILCS 140/3(d)). Because the District bears the burden of proof in a denial, the FOIA Officer shall consult with the Fire District Counsel supervisor prior to issuing a denial.

#### 801.3.3 PUBLIC ACCESS COUNSELOR

Any requestor who believes that a violation of the Illinois FOIA has occurred should be referred to the Public Access Counselor in the office of the Illinois Attorney General.

If a request for review from the Public Access Counselor is received regarding a record denial, the FOIA Officer shall provide the requested records or other documents within seven working days of the request to the Public Access Counselor and shall advise the Fire District Counsel of all such communications (5 ILCS 140/9.5).

Any communication with the District by the Public Access Counselor shall be promptly brought to the attention of the Fire Chief.

#### 801.4 RELEASE RESTRICTIONS

Examples of records with release restrictions include:

- (a) Pre-Hospital Care Reports (PCRs) (45 CFR 164.502) (see the Patient Medical Record Security and Privacy Policy).
- (b) Information in public records that would constitute an unwarranted invasion of personnel privacy, in which the individual's right to privacy outweighs any legitimate interest in obtaining the information, shall not be disclosed. However, the disclosure of personal information that bears on the public duties of employees of this district shall not be considered an invasion of personal privacy (5 ILCS 140/7(1)(c)).
- (c) Records pertaining to pending litigation (5 ILCS 140/7(1)(m)).
- (d) Legal opinions (5 ILCS 140/7(1)(m)).

# Lemont Fire Protection District

## Policy Manual

### *Release of Records*

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- (e) District records that would obstruct an ongoing investigation or pending administrative enforcement proceeding (5 ILCS 140/7(1)(d)).
- (f) Records relating to a public body's adjudication of employee grievances or disciplinary cases. This exemption shall not extend to the final outcome of cases in which discipline is imposed (5 ILCS 140/7(1)(n)).
- (g) Test questions, scoring keys, and other examination data used to administer an examination for employment (5 ILCS 140/7(1)(q)).
- (h) Preliminary drafts, notes, recommendations, or interagency or intra-agency memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body (5 ILCS 140/7(1)(f)).
- (i) Contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the Lemont Fire Protection District relative to the acquisition of property or to prospective public supply and construction contracts, until all of the property has been acquired or all contract agreements executed (5 ILCS 140/7(1)(r)).
- (j) Records where disclosure is exempt or prohibited pursuant to provisions of federal or state law, including but not limited to provisions of the Rules of Evidence relating to privilege.
- (k) Private information, including but not limited to unique identifiers such as Social Security numbers, driver's license numbers, employee identification numbers, biometric identifiers, personal financial information, passwords or access codes, medical records, home or personal telephone numbers, home addresses, personal email addresses, or personal license plates (5 ILCS 140/7(1)(b); 5 ILCS 140/2(c-5)).
- (l) Employee performance evaluations (820 ILCS 40/11).
- (m) Names and all identifying information relating to an employee, communications, notes, records, and reports arising out of a peer support counseling session under the First Responders Suicide Prevention Act (5 ILCS 140/7.5).

#### **801.5 RELEASED RECORDS TO BE MARKED**

Each page of any record released pursuant to this policy should be stamped in a colored ink or otherwise electronically marked to indicate the district name and to whom the record was released.