

## ALERT—RECENT PUBLIC RECORDS REQUESTS

### Key Takeaways:

- The identified public records requests are complex.
- School districts should expect that it will take some time to provide the responsive documents.
- School districts receiving the identified public records request should consult with their general legal counsel immediately.

*The following observations are provided solely as a courtesy and do not constitute legal advice.*

### The Issue

Several school districts have received – and more will receive – what appear to be identical, coordinated public records requests from parents unhappy with mask requirements and vaccines. The parent names and district names change, but otherwise the requests we’re aware of to date are the same. There are two sets of requests, one consisting of 25 topics and the other consisting of 36 topics. These requests are largely aimed at mask requirements and vaccine information, but also seek documents about funding, and include some unusual requests that don’t appear to seek “identifiable records.”

These lengthy public records requests are complex, and *we urge any district that receives these public records requests to consult with your district’s general counsel promptly for guidance in responding.* This document provides some general observations regarding these requests, which WSSDA is offering as a courtesy and resource for our members. This document is not intended to circumvent the need to contact your district’s general counsel regarding these public records requests, if received. We encourage you to share this document with your general counsel.

The 61 total topics fall roughly into four general categories: (1) documents reflecting sources of funding and “threats” to take away funding; (2) documents reflecting various subjects relating to masks and vaccines; (3) requests for legal authority; and (4) requests for documents that satisfy legal requirements of court rules and/or case law.

The first of these four general categories, regarding funding, is reflected in Topics 1 and 4 of the 25-topic set. Topic 1 requests “all sources” of funding. On its face, this request is unlimited in time duration. However, from context, it appears that the requestors are interested in sources of funding for the current school year. Accordingly, one approach may be to clarify that the district understands this Topic to encompass only the current year’s funding sources, and ask that the requestors let the district know if the district misunderstood that. The requestors indicate that their motivation in sending these requests is to assist the district receiving the requests, so presumably the requestors are not intending their requests to be burdensome.



The second of these four categories, regarding masks and vaccines, is reflected in Topics 2, 3, 5-13, and 15-16 of the 25-topic set, and Topics 1-7, 11-15, 19-21, 23-25, and 30-36 of the 36-topic set. Some of these requests, such as Topics 5-7 of the 25-topic set and Topics 13-15 of the 36-topic set, reference quoted terms (“The Purification Test,” for example) that may require clarification from the requestors. Many of the types of documents requested are likely not in the possession of districts, such as warning labels for vaccines and certified copies of Governor Inslee’s proclamations.

The third of these four general categories, requests which seek legal authority, is reflected in Topics 14 and 17-25 of the 25-topic set, and Topics 26-29 of the 36-topic set. These requests seek to have the district provide a copy of a statute or other legal authority that the district believes supports a stated proposition, or to provide documents supporting legal analysis of statements made in the request. These do not appear to be requests for “identifiable records” as required under the Public Records Act (PRA). See RCW 42.56.080. Rather, the requests in this general category appear to be intended to have the district complete legal analysis and then provide the results of that hoped-for legal analysis to the requestors.

The fourth of these four general categories, requests for documents that satisfy legal requirements of court rules and/or case law, is reflected in Topics 8-10, 16-18, and 22 of the 36-topic set. The requests in this category also don’t appear to request “identifiable records” as required by RCW 42.56.080. Rather, through these requests, the requestors appear to seek to require the district to conduct legal analysis regarding court admissibility of documents, and then produce documents reflecting that hoped-for analysis.

## Implications

Given the 61 categories, it will likely take quite some time for most districts to respond. For many of these topics, it’s likely a district will not have any responsive documentation, but even that confirmation process will likely take time given the volume of requests. Each district will want its five-day initial response letter to contain an accurate estimate of how long it is anticipated to take for the district to gather the responsive documentation (to the extent it exists).

Again, given the complexity of these requests, and the fact that many districts will be responding to the same requests, it would be prudent to consult with your general counsel right away if you receive these public records request(s).