

Procedures for Receiving Subpoenas, Complaints and Summons

(This is not an all-inclusive list of documents that can be served upon the District. The information below is to be used as a guideline and not construed as legal advice. For specific questions and legal advice contact the District's legal counsel.)

There are various types of subpoenas, complaints and summons. These documents are time sensitive and should be handled accordingly. The following types are commonly served upon the District: 1) Subpoenas for employee records including wages, medical records, absences and employment records; 2) Subpoenas for student records; 3) Liability claims, summons and complaints against the District; 4) Individual employee summons, claims and complaints; 5) Personnel complaints regarding discrimination, harassment, etc., and complaints about employees 6) OSHA citations and notice of violations.

GENERAL TYPES OF DOCUMENTS THE DISTRICT WILL RECEIVE

1. Subpoenas for Employee Records – These are received by mail or personal delivery. Any person delivering this type of subpoena or any subpoena received by mail should be directed first to Risk Management.

Risk Management will review and handle the request if it pertains to a workers' compensation claim. If it does not, the person delivering the subpoena or the mailed copy will be sent to Personnel.

For classified employee requests the subpoena will be directed to the Classified Confidential Administrative Assistant. For certificated employee requests the subpoena will be directed to the Credentialing Technician.

2. Student Records – These subpoenas, and any person serving the District with a subpoena for student records, should be forwarded to Child Welfare and Attendance (DEC North).
3. Liability Claims, Summons and Complaints against the District – These are to be delivered in person or by mail to the Risk Management Office. Risk Management will be responsible for handling.
4. Summons, Claims, Complaints and Subpoenas served upon an Individual Employee – The District is NOT authorized to accept service on behalf of an individual employee nor is the District, nor any department/school site, authorized to release personal information to anyone without a legal subpoena, including releasing the work location of any employee. Administrators and supervisors do not have to pull an employee away from their job duties in order to be served. The server may wait for the employee to exit at lunch or at the end of the work shift to serve the employee. However, the District is not obligated to assist. Also, the department/school site should neither confirm nor deny that the person works at a particular site, but may share the sites usual operating hours and invite the server to observe the staff going or coming to determine if they observe the individual they are seeking.

5. Employee Discrimination, Harassment, etc. Complaints & Citizens Complaints – These are typically served upon the District through Personnel. Personnel will be responsible for handling and responding to these actions. However, Risk Management should be informed of these claims as there may be liability insurance coverage available, including defense costs, depending upon the wording and the nature of the allegation.
6. OSHA Citations and Notice of Violations – These are typically sent by mail and should be directed to Risk Management for handling. If an OSHA inspector visits your site, please notify Risk Management as soon as possible so that a Risk Management representative may be present during the site inspection.

EXCEPTIONS

- ❖ Employee information may be released only to individuals or entities who are working on behalf of the District and with authorization from Risk Management or Personnel, such as an investigator investigating a workers' compensation or liability claim. It is the responsibility of Risk Management and Personnel to inform appropriate staff of the name and company of the entities working on behalf of the District.
- ❖ The District is currently working with local authorities on a case by case basis in matters involving criminal investigation and assistance in producing witnesses.
- ❖ Risk Management can accept claims and summons on behalf of an individual employee when the employee is being sued while performing their usual and customary job duties, the District is also being sued, and the District is indemnifying the employee.

IS THE SUBPOENA VALID?

Read the subpoena carefully to determine when the records are to be produced. Some subpoenas clearly state "Do not release the records until (a given date)". Other subpoenas indicate an appearance date, but allow the District five (5) days prior to the appearance date to mail or make the records available. Do not produce the records prior to the above two time-frames. The defendant has an opportunity to formally request the court to "quash" (void) the subpoena.

In order for a subpoena for records to be valid the following items must be present:

1. Subpoenas must be signed (only requests listed above the signature are valid).
2. It must have a date listed in Box 1 indicating an appearance date or the date which the records are to be produced.
3. A "Notice to Defendant That Personal Records Are Being Sought" pursuant to Code of Civil Procedure must also be included.
4. A Case Number must be evident on the document.

Please note: *All documents listed in this procedure are time sensitive and should be sent to the correct department immediately. Please call to notify the department the documents have been sent or are available for pick up.*