IDAHO ASSOCIATION OF COUNTIES

2026 FALL COUNTY OFFICIALS INSTITUTE

# Idaho Public Records Law

Access, exemptions, and records retention



Idaho Association of Counties · [Presenter] · [Date]

THE NEXT HOUR

## Agenda

01 **Foundations**
10 minutes

02 **Handling requests and fees**
15 minutes

03 **Exemptions**
10 minutes

04 **Denials, appeals, and penalties**
8 minutes

05 **Records retention**
12 minutes

06 **First steps and questions**
5 minutes

WHY IT MATTERS

## “Open government is the cornerstone of a free society.”

Idaho has protected public access to government records since 1990. The law was re-codified in Title 74 in 2015.

Office of the Attorney General, Idaho Public Records Law Manual, Introduction (July 2026)

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PART 1

# Foundations

The presumption of openness, what counts as a public record, and who must comply.

FOUNDATIONS

# Every record starts open

> **“Every person has a right to examine and take a copy of any public record of this state…”**

Records are presumed open at all reasonable times, **except as otherwise expressly provided by statute.**

Idaho Code § 74-102(1)

FOUNDATIONS

# What is a public record?

**1**

### Any writing

Paper, email, text, photo, audio, video, data, and other documents

**2**

### About public business

Relates to the conduct or administration of the public’s business

**3**

### Held by an agency

Prepared, owned, used, or retained — regardless of form

**NARROW EXCEPTION**

Personal notes made solely for your own use — **only if never shared** with anyone

Idaho Code §§ 74-101(13), 74-101(18)

FOUNDATIONS

# Two Idaho cases every official should know

FOX V. ESTEP (1990)

### A clerk’s handwritten meeting notes

Notes taken to record commission proceedings were part of a statutory duty — and could be public records.

COWLES PUBLISHING (2007)

### Email of a personal nature

Email can be a public record if it relates to public business and explains an official’s actions.

Fox v. Estep, 118 Idaho 454 (1990) · Cowles Publishing v. Kootenai County, 144 Idaho 259 (2007)

FOUNDATIONS

# Who must comply — and who answers

### Every county office

A “local agency” includes the county, any agency of it, and its committees and other local governments.

Every official and employee — elected, appointed, or hired.

### A named custodian

Designate at least one custodian, plus an alternate.

Post the custodian’s name and contact on your website.

Idaho Code §§ 74-101(8), (12); 74-102(16); 74-119

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PART 2

# Handling requests

What a valid request looks like, response deadlines, copies, and fees.

HANDLING REQUESTS

## What a valid request looks like

**EVERY REQUEST MUST**

- Go to the designated custodian
- Clearly say it is a public records request

**THE LOCAL GOVERNMENT MAY REQUIRE**

- A written request; email is fine
- Specific subject matter and date range
- Name, mailing address, email, and phone
- A sworn statement of Idaho residency

Idaho Code §§ 74-102(4), 74-103(1)

HANDLING REQUESTS

# The response clock

| | GRANT OR DENY WITHIN | WITH WRITTEN NOTICE OF DELAY |
|---|---|---|
| **Idaho residents** | **3** working days | **10** working days |
| **Nonresidents** | **21** days | **35** days |

**Miss the deadline and the request is deemed denied.**

Idaho Code § 74-103(2)–(3)

HANDLING REQUESTS

# Don’t ask why

### A custodian may

- Verify identity for records about a person
- Confirm a list won’t be used for mailing or phone list
- Help the requester narrow a large request

### A custodian may not

- Ask the purpose of the request
- Review or scrutinize the requester’s copies or notes
- Deny all of a record because part is exempt

Idaho Code §§ 74-102(5), (6), (9); 74-112; 74-120

HANDLING REQUESTS

# Inspection and copies

**Provide what exists**
No duty to create a record or a new format

**Electronic on request**
If the record exists electronically and they ask

**Certified copies**
On demand, where the record permits it

**Protect the originals**
County equipment, supervised handling

Idaho Code § 74-102; Adams County Abstract Co. v. Fisk, 117 Idaho 513 (Ct. App. 1990)

FEES

# Free to residents up to a point

**2**
hours of labor at no charge

**100**
pages of paper copies at no charge

FEES MAY APPLY WHEN A REQUEST

Exceeds 100 pages · Needs redaction · Takes more than two hours

Idaho Code § 74-102(10)(a)–(b)

FEES

# When you do charge

**Actual cost only**
Lowest-paid qualified staff rate; no lump sums

**Itemize every bill**
Per-page cost, hourly rates, and actual time

**Advance payment allowed**
Refund any amount over actual cost

**Must waive when**
Public benefit, not personal interest, and unable to pay

Idaho Code § 74-102(10)(c)–(h), (11), (12)

CHECK YOUR UNDERSTANDING

# True or false?

1. County business texted from my personal phone is not a public record.
2. We may ask a requester what the records are for.
3. If we don’t answer within the deadline, the request is denied.

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PART 3

# Exemptions

How exemptions work, and the ones county offices see most often.

EXEMPTIONS

## Three rules for every exemption

1 **Find the statute**
No statute, no exemption — policy and preference don't count

2 **Redact, don't refuse**
Release the nonexempt portion of every record

3 **Ask your prosecutor**
Any doubt about an exemption calls for legal advice

Idaho Code §§ 74-104 to 74-111, 74-112, 74-124; Idaho Press Club, Inc. v. Ada County (4th Dist.)

EXEMPTIONS

## Exemptions counties see most

**Personnel records**
§ 74-106(1)

**Law enforcement investigations**
§§ 74-105(1), 74-124

**Juvenile records**
§ 74-105(2)

**Medical records**
§ 74-106(13)

**Attorney-client privilege**
§ 74-104(1)

**Pre-sale appraisals and bid estimates**
§ 74-107(3), (4)

Idaho Code §§ 74-104 to 74-107; AG Public Records Law Manual, Q18–Q22

EXEMPTIONS

## Personnel files: what's public

**PUBLIC**

- Employment history and status
- Classification, pay grade, and step
- Gross salary, bonuses, and severance
- Reimbursed expenses
- Name of sole finalist

**NOT PUBLIC WITHOUT WRITTEN CONSENT**

- Home address, phone, birth date
- Social Security and license numbers
- Applications, tests, and scores
- Grievances and evaluations

Idaho Code § 74-106(1); Federated Publications v. Boise City, 128 Idaho 459 (1996)

EXEMPTIONS

# Law enforcement records

**ALWAYS RELEASED**

- Time, date, place, and nature of incident
- Name, sex, age, and address of arrestee
- Crime charged
- Criminal history reports

**WITHHELD ONLY IF RELEASE WOULD**

- Interfere with enforcement
- Deny a fair trial
- Invade personal privacy unreasonably
- Expose a source, technique, or officer

Idaho Code §§ 74-105(1), 74-124; Hymas v. Meridian Police Dept., 156 Idaho 739 (2014)

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PART 4

# Denials and appeals

What a denial must say, how requesters appeal, and what is at stake for officials.

DENIALS AND APPEALS

## Every denial letter must

- ✓ Be in writing, from the official in charge or a designee
- ✓ State that an attorney reviewed it — or that you chose not to consult one
- ✓ Cite the statutory authority for withholding
- ✓ Explain the right to appeal and the 180-day deadline

**THEN** Keep the withheld records until the 180 days pass, a court rules, or longer as law requires

Idaho Code §§ 74-103(4)–(5), 74-115(1)–(2)

DENIALS AND APPEALS

## The only appeal is to district court

| STEP 1 | STEP 2 | STEP 3 | STEP 4 |
|---|---|---|---|
| **Denial, or no timely response** | **Petition filed within 180 days** | **Hearing within 28 days** | **Judge reviews records and rules** |

No internal county or other local government appeal is allowed. A frivolous request *or* refusal can cost the losing side reasonable costs and attorney fees.

Idaho Code §§ 74-103(3), 74-115, 74-116

DENIALS AND APPEALS

## Bad faith costs; good faith protects

**$1,000**

Civil penalty against an official who deliberately and in bad faith refuses a legitimate request

### Immunity

No liability for releasing a record when you acted in good faith to comply

Idaho Code §§ 74-117, 74-118

ENFORCEMENT

## Who enforces the law

THE REQUESTER

**Brings the action**

Petitions district court after a denial

THE PROSECUTOR

**Promotes compliance**

Advises county offices; sues to recover removed records

THE COURT

**Decides and sanctions**

Orders release, awards fees, imposes penalties

**KEY POINT** Enforcement is private: no agency sues on the requester's behalf

Idaho Code §§ 74-115, 74-116, 74-117, 74-121; AG Public Records Law Manual, Introduction

ENFORCEMENT

## After a violation: exposure and fixes

**WHAT CAN FOLLOW**

- Court order to release the records
- Attorney fees for a frivolous refusal
- Up to $1,000, paid by the official
- Court action to recover removed records

**HOW TO CORRECT COURSE**

- Release what was wrongly withheld
- Reissue a compliant written response
- Preserve every record at issue
- Bring in the prosecutor now

**NO FORMAL CURE** Prompt, good-faith correction is your best protection

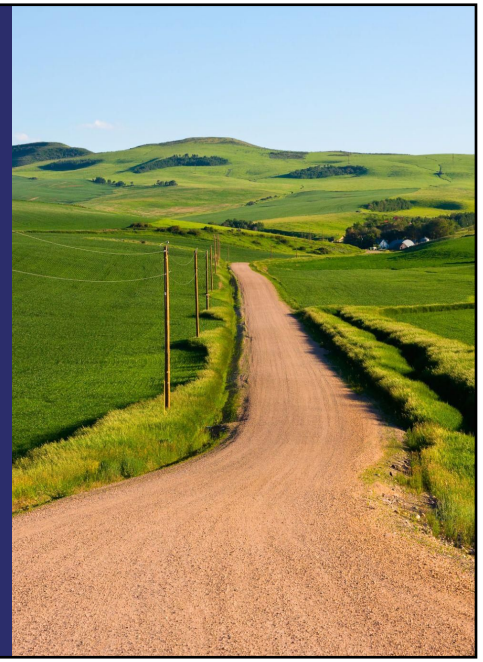
Idaho Code §§ 74-103, 74-115(2), 74-116, 74-117, 74-118, 74-120, 74-121

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PART 5

# Local records retention

How long counties, cities, and other local districts keep records, and how to destroy them lawfully.



RECORDS RETENTION · COUNTIES

## For counties: three classes, three minimums

| | | |
|---|---|---|
| **Permanent** | **10 yrs+** | Minutes, ordinances, resolutions, budgets, ledgers, title records |
| **Semi Permanent** | **5 yrs+** | Claims, contracts, warrants, vouchers, purchase orders |
| **Temporary** | **2 yrs+** | General correspondence, cash receipts subject to audit |

Not listed? The county board classifies it on the prosecutor's advice. Cities and highway districts use these classes too, though definition of permanent is different for cities.

Idaho Code § 31-871(1)–(2); IAC Records Retention Manual (2026), § 2.1

RECORDS RETENTION

## Cities and highway districts

| | CITIES · § 50-907 | | HIGHWAY DISTRICTS · § 40-1337 | |
|---|---|---|---|---|
| **Permanent** | **Forever** | Or move to the State Archives by council resolution | **10 yrs+** | Right-of-way permits, minutes, budgets, ledgers |
| **Semipermanent** | **5 yrs+** | Claims, contracts, checks, license applications | **5 yrs+** | Claims, contracts, warrants, election records |
| **Temporary** | **2 yrs+** | No financial record before the city's audit | **2 yrs+** | Correspondence, cash receipts subject to audit |
| **To destroy** | Council resolution listing each record in detail, on the city attorney's advice; clerk supervises | | No procedure in statute; the board classifies any record not listed | |

**Cities only:** adopt a schedule by resolution, and never destroy permanent or historical records.

Idaho Code §§ 50-907(1)–(5), (7); 40-1337

RECORDS RETENTION

# Every other district

Fire, library, cemetery, recreation, school, and most other districts have **no retention statute.** These rules still apply:

PUBLIC RECORDS ACT

**Same access rules**

"Local agency" includes school districts and every other district

DENIED REQUESTS

**Hold the records**

Keep them 180 days, or until a court rules

INDEPENDENT AUDITS

**Audits still apply**

Districts spending over $200,000 a year must be audited

ELECTRONIC RECORDS

**Your board decides**

Each district decides whether to keep records electronically

**PRACTICAL STEP** Adopt a written retention schedule by board resolution. Model it on the county, city, or highway district statute, and have your attorney review it.

Idaho Code §§ 28-50-117, 67-450B(1)–(2), 74-101(8), 74-115(2)

RECORDS RETENTION · COUNTIES

# County law enforcement video and audio

**200**

DAYS MINIMUM

Any recording with evidentiary value

**60**

DAYS MINIMUM

No evidentiary value; body, vehicle, or other mobile equipment

**14**

DAYS MINIMUM

No evidentiary value; cameras fixed to a building wall

A complaint or valid public records request gives a recording evidentiary value.

**Who it covers:** the sheriff, prosecutor, and probation offices, and their private contractors.

Idaho Code § 31-871(1)(a), (2)(d)–(g), (3)

RECORDS RETENTION · COUNTIES

# Destroying county records lawfully

1. **Regular audit is complete**
2. **Prosecutor advises**
3. **Board adopts a resolution listing each record**
4. **Office holder supervises disposal**

**DISPOSAL** Shred or burn confidential records · Send archival records to State Archives

**Cities:** council resolution on the city attorney's advice, with the clerk supervising.

**Highway and other districts:** no destruction procedure in statute.

Idaho Code §§ 31-871(2)(g), 50-907(7), 40-1337; IAC Records Retention Manual (2026), §§ 1, 3.7

RECORDS RETENTION

# When to stop all destruction

**Litigation**
Actual, pending, or possible

**Audit or investigation**
Until resolved and counsel releases the hold

**Denied records request**
180 days, or until a court rules

Issue a written **destruction hold notice** covering paper, film, and electronic records.

The denied-request hold applies to **every** public agency: county, city, or district.

IAC Records Retention Manual (2026), §§ 3.8, 4; Idaho Code § 74-115(2)

RECORDS RETENTION

# Going paperless the right way

### Accurate and unalterable
Must reproduce on paper for the full retention period

### Minimum quality
Digital prints at 200 dpi or better; film meets ANSI

### Two copies
One in the office; one in a fire-resistant vault or off-site

### Becomes the original
The paper may then be disposed of or returned

**Counties, cities, and highway districts** all follow these four standards.

**CITIES ALSO** Give the State Archives 30 days' notice before destroying a permanent record paper original, and keep historical originals.

**Other districts:** each board decides whether to keep records electronically.

Idaho Code §§ 31-871A, 40-1337A, 50-907(6), 28-50-117

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# Questions?

RESOURCES

Idaho Public Records Law Manual, Office of the Attorney General

IAC Records Retention Manual, effective May 12, 2026

Idaho Code §§ 74-101 to 74-127, 31-871, 31-871A, 50-907 and 40-1337

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