



PUBLIC RECORDS REQUEST POLICY

1. Purpose

This Washoe County public-records-request policy is intended to establish a process for responding to public records requests that are made to Washoe County governmental agencies.

2. Records Official

Each agency must appoint a person (a “records official”) to oversee the agency’s response to public records requests. An agency shall immediately forward to its records official or the official’s designee all public records requests that the agency receives. On receiving the public records request, the records official or designee shall determine the timeline required to promptly respond to the request and the response’s content. In handling the records request, the records official shall follow the procedure in this policy’s section 4.

3. What is a Public Record?

Under Nevada law, a governmental entity’s books and records are considered public, unless declared by law to be confidential. A governmental entity’s books and records include information and other documents created or accumulated in the course of conducting public business that document the activities and business of public employees.

A public record is generally a documentary “record” and not simply a request for information. If a record does not already exist, there is generally no duty to create a record in response to a public records request. But when an agency has a computer program that can readily compile the requested information, the agency is not excused from its duty to produce and disclose that information.

A record is not available to the public if it is declared by law to be confidential. A record may also be confidential if it is privileged or if a common-law balancing-of-the-interests test shows that the public interest in disclosure is outweighed by other interests such as privacy, the ability of the agency to perform its function, or other substantial concerns. However, there is a strong presumption in favor of disclosure, so exemption, exception, or balancing tests must be narrowly construed.





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4. Procedures

a. All requests for public records should be immediately forwarded to the agency's records official or the official's designee who shall ensure that the request is logged in the agency's records request log.

i. The records official or designee shall acknowledge receipt of the request in writing to the requester. If the requestor submits the request by e-mail, this acknowledgement also may be sent by e-mail.

ii. The records official or designee shall forward the request to the employee who may best be able to respond or where the records are maintained.

b. The records official shall ensure that, within five business days from the date the agency receives the request, one of the following occurs:

i. the requester inspects the record or receives copies of the record, as requested;

ii. if the agency does not have legal custody of the record, written notice of that fact and the name and address of the governmental entity that has legal custody of the record, if known, is provided to the requester;

iii. if the record has been destroyed under the agency's records-retention schedule, written notice of that fact is provided to the requester;

iv. if the agency cannot provide the record by the end of the fifth business day after the request is received, written notice of that fact and a date and time on which the record will be available for the person to inspect or copy is provided to the requester; or

v. if, when acknowledging receipt of the records request under this policy's section 4(a)(i), the records official knows that the agency cannot provide the record within five business days of receiving the request, the acknowledgement shall so state and provide the date and time on which the records will be available for the requestor's copying or inspection.





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c. Throughout the process set forth in section 4(b), a reasonable effort should be made to assist the requester to focus the request in such a manner as to maximize the likelihood the requester will be able to inspect, copy or receive a copy of the public book or record as expeditiously as possible.

5. Fees

An agency may charge a fee for providing a copy of a public record. However, the fee is limited as described herein and must not exceed the actual cost to the agency to provide the copy of the public record unless a specific statute or regulation sets a fee that the governmental entity must charge for the copy. An agency shall not charge a fee for providing a copy of a public record if a specific statute or regulation requires the governmental entity to provide the copy without charge. An agency may waive all or a portion of a charge or fee for a copy of a public record.

“Actual cost” means the direct cost incurred by the agency in providing the public record, including without limitation, the cost of ink, toner, paper, media, and postage. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

An agency shall prepare and maintain a list of the fees that it charges at each office in which the agency provides copies of public records. An agency shall post, in a conspicuous place at each office in which the governmental entity provides copies of public records, a legible sign or notice which states:

- (a) The fee that the governmental entity charges to provide a copy of a public record; or
- (b) The location at which a list of each fee that the governmental entity charges to provide a copy of a public record may be obtained.

An agency may budget the agency’s projected-annual costs for receiving, reviewing, and responding to public records requests. Regardless of the costs an agency includes in determining its public-records-request costs for budget purposes, the agency shall not charge a requestor more than the actual cost of responding to a request, unless otherwise provided by law.

Postage:

The requestor is responsible for estimated postage.





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Payment:

Payment may be made by check or money order made out to the agency. A department may also accept payment by cash or credit card if those means are readily available and deemed acceptable by the department.

Court reporter transcripts:

In addition to the actual cost of the medium in which the copy of the transcript is provided, the fee charged for a copy of each page of a court reporter transcript is the fee per page set forth in the contract between the governmental entity and the court reporter.

6. Penalties

In addition to any relief awarded pursuant to NRS 239.011, if a court determines that a governmental entity willfully failed to comply with the provisions of this chapter concerning a request to inspect, copy or receive a copy of a public book or record, the court must impose on the governmental entity a civil penalty of: (a) For a first violation within a 10-year period, \$1,000. (b) For a second violation within a 10-year period, \$5,000. (c) For a third or subsequent violation within a 10-year period, \$10,000.

7. General Policies for Processing Public Records Requests

- a. All public records, unless declared by law to be confidential, must be open at all times during office hours to inspection by any person, and may be copied.
- b. Original public records must not be removed from the agency during inspection by members of the public and must be monitored by an employee while any review is being conducted.
- c. An agency shall make reasonable efforts to assist the requestor to focus the request in such a manner as to maximize the likelihood the requestor will be able to promptly receive a copy of the information being requested.
- d. Confidential records of federal, state, and local governments shared with the agency **MUST NOT** be disclosed without prior written authorization from that government agency. Further, mere possession of records or information may not mean that the agency has legal custody or control over those records.





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e. If a record contains information deemed confidential, a request to inspect or copy the record cannot be denied if the confidential information can be redacted, deleted, concealed or separated from the record so the remainder of the record can be inspected or copied.

f. If an agency denies a request because the public book or record, or part thereof, is confidential, the agency shall provide notice of that fact and a citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential.

g. Public records must be provided in any medium in which they are readily available. The records official or the official's designee shall not refuse to provide a copy of the record in a readily available medium because the official or designee has already prepared or would prefer to provide the copy in a different medium.

h. If requested, an agency shall provide a copy of a public record in an electronic format by means of an electronic medium. But nothing requires an agency to provide a copy of a public record if an electronic format or by means of an electronic medium if:

- (i) the public record was not created or prepared in an electronic medium; and is not available in an electronic format; or
- (ii) providing the public record in an electronic format or by means of an electronic medium would give access to proprietary software or would require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

i. Electronic databases that contain the electronic mail addresses or telephone numbers of individuals that have provided the addresses or numbers for the purpose of or in the course of communicating with the agency are confidential and may not be disclosed in its entirety as a single unit unless in response to an order issued by a court. However, individual telephone numbers or electronic mail addresses of a person are not confidential and may be disclosed individually.

j. Public Records Requests must be responded to no later than the end of the fifth business day after the date on which the request is received by the agency. The response may include an estimate of the time it will require to provide access or a copy.





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k. Public records requests may be written or verbal.

l. If the person responding in the agency where the records are maintained or who is responsible for the subject matter of the request has questions concerning inspection or reproduction of a requested document, he or she should consult the records official and/or his or her designee. Likewise, if the records official and/or his or her designee have questions concerning inspection or reproduction of a requested document, he or she should consult the chief or his or her designee in the agency where the records are maintained or which is responsible for the subject matter of the request.

m. In appropriate situations, the agency's assigned deputy district attorney should be consulted for determining whether:

i. the item requested is a public record, available for review and reproduction;

ii. the item requested is a public record which some special legal considerations might dictate should not be made available for inspection and reproduction; and

iii. if a legal balancing test is to be performed, the requestor should be informed and then notified as soon as a decision has been made. Balancing tests should be performed without delay.

n. Copyrighted materials may be duplicated—without risk of infringement—when reproduction is for the specific purpose of: “criticism, comment, news reporting, teaching, scholarship, or research.”. When the records official or designee is aware that some other use is intended, consultation with the District Attorney's Office may be necessary to insure there is no infringement by reproduction of copyrighted material.

o. The number of hours spent on a matter is generally not confidential information.





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8. Definitions

“Record of a local governmental entity” or “record” means information that is created or received pursuant to a law or ordinance, or in connection with the transaction of the official business of any office or department of a local governmental entity, including, without limitation, all documents, papers, letters, bound ledger volumes, maps, charts, blueprints, drawings, photographs, films, newspapers received pursuant to NRS 247.070, recorded media, financial statements, statistical tabulations and other documentary materials or information, regardless of physical form or characteristic.

“Non-record materials” means published materials printed by a governmental printer, worksheets, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a local governmental entity.

“Agency” means as agency, board, commission bureau, council, department, division, authority or other unit of Washoe County.

