

Stretch Goal: N/A Strategic Initiative: N/A

MATTERS FOR ACTION:

Board of Governors Policy regarding Colorado Open Records Act requests.

RECOMMENDED ACTION:

MOVED, that the Board of Governors (Board) approve the proposed Records Request Policy regarding Colorado Open Records Act attached.

EXPLANATION:

Presented by Michael D. Nosler, General Counsel of the Colorado State University System.

The Colorado Open Records act (CORA) sets forth the types of documents subject to and the procedures for requesting public records. See: C.R.S. § 24-72-200.1 et. seq. In addition the law sets forth a statutory copying charge and permits collection of a nominal research and retrieval fee. This policy is designed to insure compliance with the statute by requesting parties and sets out requirements necessary to request public records from the Board.

Approved

Denied

Bonifacio A. Cosyleon, Board Secretary

Date

THE BOARD OF GOVERNORS OF THE COLORADO STATE UNIVERISTY SYSTEM

Policies of The Board and Colorado State University System	Date Issued:
Policy Title: Colorado Open Records Act - RECORDS REQUEST POLICY	

A. POLICY STATEMENT

The Board of Governors of the Colorado State University System (Board) and the Colorado State University System office (System) comply with the Colorado Open Records Act C.R.S. § 24-72-200.1 *et. seq.* (CORA). To facilitate obtaining documents or other information from the Board or System, before submitting a CORA request, we encourage the media and others to contact the System or the appropriate university media relations officer. Most information can be made available quickly and easily through an informal request, which can save the requester and the Board/System both time and money.

However, should it be necessary to file a formal CORA request, media and others must use the procedures established in this policy. To expedite requests, the media should also work with the System or the Board's media relations officer before filing to best establish:

- The scope of information and the time frame for a response
- What information exists in available records
- How best to identify and describe relevant records
- Potential costs

CORA requests (fax or standard mail only; e-mail requests are not accepted) must be directed to the designated custodian for the Board, System and respective university. Media relations officers cannot process formal CORA requests. Please refer to paragraph D below for a list of designated custodians.

CORA requests trigger a process, which starts with the identification retrieval process. If possible, records will be made available within three business days, starting the day after the request is received. If circumstances prevent timely processing, the custodian will notify the requester that an extension is necessary.

B. Procedure for making and responding to requests for information to the Colorado State University System and the Board of Governors under the Colorado Open Records Act (CORA)

1. These procedures apply to requests, submitted pursuant to C.R.S. §24-72-201 *et seq.*, to inspect public records in the custody or control of the Board or System. These procedures may not apply to any requests to inspect public records in the custody or control of one of the campuses. Those requests must be submitted in accordance with the policy for that respective university campus.
2. All requests to inspect public records must be submitted in writing to the official custodian. Requests made to any person other than the proper custodian will not be accepted. *See*, Custodian contact information at paragraph D.
3. Requests may be mailed or sent via facsimile. **Requests made via electronic mail will not automatically be accepted.** The **custodian, at the custodian's sole prerogative,** may accept requests sent via e-mail upon request to do so. If a request is sent via e-mail to anyone other than the custodian, it will not be considered as received by the Board or System and the statutory time for response to requests will not begin until a confirmation has been sent by the custodian.

Note: The reason for this rule is, due to spam filters and inactive or incorrect e-mail accounts, the System or university cannot guarantee that the custodian has received an electronic mail request.

4. All requests for records **must** be specific as to the records sought and the relevant dates covered by the request. Requests for correspondence must identify the parties to the correspondence. For any request that is vague or broadly stated the custodian may require the requestor to provide a more specific request before responding.
5. If a requestor is unable to identify the specific document/s sought and the relevant dates, the requestor is encouraged to contact the CSUS Office of Public Relations at 303-376-2635 in advance of submitting a request for assistance in providing the requisite specificity.
6. Time for response to records requests shall be as follows:
 - The normal time for production shall be three working days, beginning on the first business day after the request which meets the criteria set forth herein by the custodian is received.
 - Such periods may be extended upon determination by the custodian that extenuating circumstances exist and absent an agreement with the requestor for a longer period, such period of extension shall not normally exceed **seven** working days. The requestor shall be notified of the extension within the three-day period.
 - Time periods will be calculated without including the date on which the custodian receives any request.
7. Requests to inspect records documents will not take priority over the regular work activities of Board or System employees.

8. Charges for copies of requested records shall be as follows:
 - The normal cost for requested documents shall be \$.25 per page or, for documents in non-standard formats, the actual duplication costs.
 - At the custodian's prerogative, depending on the estimated staff time necessary to retrieve, review and copy the records, the requestor may be charged a reasonable retrieval fee based on the actual cost of compiling the response, including employee time, of gathering, preparing, and copying requested documents. Employee time, if any shall be charged at a rate of \$20 per hour plus copying charges.*
9. If charges are expected to exceed \$20, or if a retrieval fee based on the actual cost of responding is to be charged, the custodian will provide the requestor with an estimate of the cost of responding and may require a deposit prior to production. If the requestor wishes to proceed after receiving an estimate, he or she must acknowledge their agreement to pay the costs and deposit in writing. By responding in writing, the requestor agrees to pay all fees associated with responding to the request. The time between the date of the custodian's estimate and the receipt by the custodian of a written request to proceed will not be counted against the time period for responding as set forth above.
10. No documents will be produced or copied unless payment for copying costs and if required, the retrieval fee is received by the Board or System.
11. If a requestor wishes to inspect available records in advance of receiving copies, such inspection shall be by appointment only during normal working hours of the custodian. Such inspection must be supervised by a university representative and the requestor may be charged for employee time at the rate of \$20 per hour associated with such inspection.

*This rate is arrived at by choosing the lowest hourly rate and rounding the per hour cost of hiring temporary employees trained as legal assistants, as quoted by Manpower Staffing in April 2010. The per hour cost of those positions were \$20.75 to \$31.80 per hour, respectively.

C. INFORMATION NOT PUBLIC BY LAW

While the Board and System are committed to being open, accountable and transparent, state and federal law prohibit the university from releasing certain types of information. Prohibitions include, but are not limited to:

- Student records, which are protected under the Family Education Rights and Privacy Act of 1974, unless the student waives his or her right to non-disclosure.
- Personnel records, including any record that contains "home addresses, phone numbers, financial information and other data kept because of the employment relationship." However, the following records, which would otherwise be protected personnel records, are available for public inspection by law: applications of past or current employees, employment agreements, any amount paid or benefit provided incident to termination of employment, performance ratings, final sabbatical reports, or any record of compensation, including expense allowances and benefits.

- Information protected by the attorney-client and attorney work product privileges, or other applicable legal privilege.
- The record of an executive session meeting of a state public body.
- Records of candidate searches for an executive position.
- Records of sexual harassment complaints or investigations.
- Medical, mental health, sociological and scholastic achievement data on an individual.
- Library records disclosing the identity of the user.
- The specific details of bona fide research projects being conducted by the university.
- Any records that contain information related to the identity of a donor or prospective donor, the amount of any actual or prospective gift or donation to a university-related foundation, proprietary fund-raising information, or agreements or other documents relating to gifts or donations or prospective gifts or donations.
- Any records which may or shall be denied inspection as provided by CORA as may be amended from time to time.
- The custodian is not required by the Open Records Act to construct or create a record that does not exist.

D. RECORDS CUSTODIANS

For the Board of Governors:

Board Executive Secretary
 410 Seventeenth Street
 Suite 2440
 Denver, CO 80202
 Phone: 303-534-6290
 Fax: 303-534-6298

**Copy to General Counsel at same address

For the Colorado State University System:

Office of General Counsel
 410 Seventeenth Street
 Suite 2440
 Denver, CO 80202
 Phone: 303-534-6290
 Fax: 303-534-6298

For Colorado State University- Fort Collins:

Vice President of University Operations

Division of University Operations
Colorado State University
318 Administration Building
6001 Campus Delivery
Fort Collins, CO 80523-6001
Phone: 970- 491-5257
Fax: 970-491-2254

****Copy to Deputy General Counsel at:**

Fort Collins Branch of General Counsel
01 Administration Building
Campus Delivery 0006
Fort Collins, CO 80523-0006
Phone: 970- 491-6270
Fax: 970- 491-2118

Colorado State University- Pueblo:

Office of the Provost
2200 Bonforte Boulevard
Pueblo, CO 81001
Phone: 719-549-2313
Fax: 719-549-2071

****Copy to Office of General Counsel**

410 Seventeenth Street
Suite 2440
Denver, CO 80202

Colorado State University- Global Campus

Chief Operating Officer
8000 East Maplewood Avenue
Building 5, Suite 250
Greenwood Village, CO 80111-4766
Phone: 720-279-0159
Fax: 303-741-2084

****Copy to Office of General Counsel**

410 Seventeenth Street
Suite 2440
Denver, CO 80202

Effective:

Revised: