

DIRECTIVE and GUIDE FOR HANDLING OF PUBLIC INFORMATION REQUESTS

Southeast New Mexico College

New Mexico has declared it to be the public policy of the State, that all persons are entitled to information regarding the affairs of government and the official acts of public officers and employees. Accordingly, SENMC is required to grant the public access to information regarding its public records in accordance with the New Mexico Inspection of Public Records Act. This directive sets forth the appropriate procedure for responding to requests for information made under the New Mexico Inspection of Public Records Act.

I. Important Definitions and Things to Know

- a. Public Records are all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained.
- b. Custodian is the person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control.
- c. Public Records **do not** include:
 - a. An individual's social security number, tax-payer identification number, finance account number, credit card number, or driver's license number.
 - b. A nonelected employee of a public body's home address and phone number.
 - c. Records pertaining to an employee's health or medical condition.
 - d. Letters of reference concerning employment, licensing or permits.
 - e. Letters or memoranda that are matters of opinion in personnel files or students' cumulative files.
 - f. Educational records protected by FERPA. "Education records" are records that are directly related to a student and that are maintained by an

educational agency or institution or a party acting for or on behalf of the agency or institution. These records include but are not limited to grades, transcripts, class lists, student course schedules, health records (at the K-12 level), student financial information (at the postsecondary level), and student discipline files. The information may be recorded in any way, including, but not limited to, handwriting, print, computer media, videotape, audiotape, film, microfilm, microfiche, and e-mail.

- g. Portions of law enforcement records as provided in Section [14-2-1.2](#) NMSA 1978. SENMC is not likely to receive requests for law enforcement records because we do not maintain a police force. In the event such requests are made, please forward the request and bring it to the attention of the President.
- h. Records designated as confidential by the Confidential Materials Act [[14-3A-1](#), [14-3A-2](#) NMSA 1978] which provides that any library, college, university, museum or institution of the state or any of its political subdivisions may hold in confidence materials of a historical or educational value upon which the donor or seller has imposed restrictions with respect to access to and inspection of the materials for a definite period of time as specified by the donor or seller.
- i. Trade secrets which have the following key elements: 1) Secrecy: The information is not publicly known or easily discoverable; Commercial Value: It provides actual or potential economic benefit to its owner because it is secret; and 3) Reasonable Measures: The owner takes reasonable steps to keep the information confidential (e.g., non-disclosure agreements, secure storage).
- j. Communications between SENMC and any Trustee, Officer, or Employee with SENMC's general counsel or attorney.
- k. Tactical response plans or procedures prepared by SENMC, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack.

- l. Information concerning information technology systems, the publication of which would reveal specific vulnerabilities that compromise or allow unlawful access to such systems; provided that this does not restrict requests for: 1) records stored or transmitted using information technology systems; 2) internal and external audits of information technology systems, except for those portions that would reveal ongoing vulnerabilities that compromise or allow unlawful access to such systems; or 3) information to authenticate or validate records received pursuant to a request fulfilled pursuant to the Inspection of Public Records Act.
- m. Submissions in response to a competitive grant, bids, land lease or scholarship, and related scoring materials and evaluation reports until finalists are publicly named or the award is announced.
- n. Other information protected by state or federal confidentiality laws.

II. What a Public Records Request Must Contain

- A. Any person wishing to inspect public records may submit an oral or written request to the custodian. However, the procedures set forth in this section shall be in response to a written request. The failure to respond to an oral request shall not subject the custodian to any penalty.
- B. A public records requests can be submitted through email, mail, or in person.
- C. A written public records request shall provide the name, address and telephone number of the person seeking access to the records and shall identify the records sought with reasonable particularity. No person requesting records shall be required to state the reason for inspecting the records.

III. Process Upon Receipt of Public Records Request

- a. All public records requests should be submitted to the Custodian of Records. SENMC's Custodian of Records is:

Andrea Dodson
Executive Assistant to the President
Room 112
575-234-9211
adodson@senmc.edu

The Custodian of Records is responsible for overseeing compliance with the New Mexico Inspection of Public Records Act. The Custodian shall complete the video training located at <https://www.youtube.com/watch?v=u3rhOCjbc0>. This includes assuring that SENMC has a conspicuous link or information on its website for requesting public information.

- b. Within three (3) business days of receipt of the request the Custodian must send a letter to the requestor acknowledging receipt of the request or provide that the request will be responded to within 15 business days of the request. If additional time is needed, please explain to the requester that additional time is needed and notify the President.
- c. The Custodian has ultimate responsibility for responding to the request and gathering the information. Upon receipt of the request, the Custodian should as soon as practical begin gathering the documents responsive to the request. If assistance is needed and the Custodian for whatever reason is not able to direct or obtain the assistance, then the Custodian should discuss the issue with SENMC's President.
- d. The Custodian (1) may charge reasonable fees for copying the public records, unless a different fee is otherwise prescribed by law; (2) shall not charge fees in excess of one dollar (\$1.00) per printed page for documents eleven inches by seventeen inches in size or smaller; (3) may charge the actual costs associated with downloading copies of public records to a computer disk or storage device, including the actual cost of the computer disk or storage device; (4) may charge the actual costs associated with transmitting copies of public records by mail, electronic mail or facsimile; (5) may require advance payment of the fees before making copies of public records; (6) shall not charge a fee for the cost of determining whether any public record is subject to disclosure; and (7) shall provide a receipt upon request

- e. New Mexico Law only requires that documents in paper or electronic form be provided to a requestor. University employees are not required to create a public record. The custodian shall only provide a copy of a public record in electronic format if the public record is available in electronic format and an electronic copy is specifically requested. However, a custodian is only required to provide the electronic record in the file format in which it exists at the time of the request.

IV. Excessively Burdensome Requests and Denying Requests

- a. If the Custodian determines that a written request is excessively burdensome or broad, an additional reasonable period of time shall be allowed to comply with the request. The custodian shall provide written notification to the requester within fifteen days of receipt of the request that additional time will be needed to respond to the written request. The requester may deem the request denied and may pursue the remedies available pursuant to the Inspection of Public Records Act if the custodian does not permit the records to be inspected in a reasonable period of time. Thus, it is important the Custodian continue communications with the requester to advise as to timeline for responding.
- b. If the Custodian is going to deny all or a portion of a request, then the Custodian shall provide the requester with a written explanation of the denial. The written denial shall: (1) describe the records sought; (2) set forth the names and titles or positions of each person responsible for the denial; and (3) be delivered or mailed to the person requesting the records within fifteen days after the request for inspection was received. A custodian who does not deliver or mail a written explanation of denial within fifteen days after receipt of a written request for inspection is subject to an action to enforce the provisions of the Inspection of Public Records Act and the requester may be awarded damages. Damages shall: (1) be awarded if the failure to provide a timely explanation of denial is determined to be unreasonable; (2) not exceed one hundred dollars (\$100) per day; (3) accrue from the day the public body is in noncompliance until a written denial is issued; and (4) be payable from the funds of the public body.

V. Summary

The Custodian is encouraged to have the President and if necessary SENMC's General Counsel review the request before supplying the records. However, unless the request on its face appears to warrant denial; or is highly questionable and will require substantial amount of time to gather information; the Custodian should attempt to gather the information requested and finalize a response for the President's and/or General Counsel's review.

Kevin W. Beardmore, Ed.D.
President
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