

# POLICIES AND PROCEDURES

## SP 3-110 – Records Management and Colorado Open Records Act Requests

### COLORADO COMMUNITY COLLEGE SYSTEM SYSTEM PRESIDENT'S PROCEDURE Records Management and Colorado Open Records Act Requests

#### SP 3-110

**EFFECTIVE:** November 3, 2014

**REVISED:** November 13, 2017

**REFERENCE(S):** Board Policy (BP) 3-110 Records Management; Article 72, Part 2, Title 24, C.R.S., Colorado Open Records Act (CORA); State and Federal retention and privacy laws and regulations

#### **APPROVED:**

/ Nancy J. McCallin /  
Nancy J. McCallin, Ph.D.  
System President

## Application

This procedure applies to the System office and all System Community Colleges (Colleges).

## Basis

Board policy states that the System President shall develop system-wide procedures as are reasonably necessary to protect and maintain records and provide rules for responding to public records requests (each, a Request) as that term is defined under the Colorado Open Records Act (CORA), C.R.S. § 24-72-200.1 et seq. The provisions of this procedure set forth rules for the inspection of public records. These rules are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the Custodian of Records (Custodian) or the Custodian's office. The System office, every College, and every requestor submitting a CORA Request shall adhere to the following procedures.

## Procedure

The System shall designate an individual to serve as the System's Custodian of Records. Every College shall also designate an individual to serve as their own Custodian of Records.

This Procedure must be published on the System and every College's website, along with the e-mail, fax and mailing address for the individual designated as Custodian of Records posted on the website.

All CORA Requests must be submitted in writing to the System Custodian, if System records are requested, or to the Custodian for the individual College for which records are requested. Requests made to any other person or office will not be accepted.

Requests may be mailed. The date the request is received by the Custodian will be considered the "date of receipt."

Requests sent via e-mail will not automatically be accepted. Due to spam filters and similar computer software, CCCS cannot guarantee that an e-mail request has been received by the Custodian. At the sole discretion of the Custodian, e-mail requests shall be deemed rejected unless and until the Custodian expressly confirms acceptance of the request. Should the Custodian accept an e-mail request, the statutory time for response will begin when the Custodian provides confirmation to the requestor. If a request is sent via e-mail to anyone other than the Custodian, or if the Custodian does not accept such an e-mail request, it will not be considered as received by the System or the College.

All requests for records must be specific as to the records sought and the relevant dates. 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.

If a public record is requested to be delivered digitally, and is requested to be searchable or sortable, the Custodian will first determine whether it can be provided to the requestor in the format desired. If it cannot be provided in either a searchable or sortable manner, the custodian will still provide a copy of the record in a digital format if it is able to do. The custodian is not required to produce a public record in a searchable or sortable format if:

- Producing the record in the requested format would violate the terms of any copyright or licensing agreement between the System or College and a third party, or result in the release of a third party's proprietary information;
- After making reasonable inquiries, the Custodian determines it is not technologically or practically feasible to permanently remove information that the Custodian is required or allowed to withhold within the requested format;
- It is not technologically or practically feasible to provide a copy of the record in a searchable or sortable format; or
- The Custodian is not required to purchase software or create additional programming or functionality in its existing software to remove the information.

If the Custodian is not able to comply with a request to produce a public record digitally, he/she must produce the record in an alternate format or issue a denial pursuant to state statutory requirements, and must provide a written declaration attesting to the reasons the custodian is not able to produce the record in the requested digital format.

With exception to digital format requests, while not required, the Custodian may, at the Custodian's sole discretion, choose to manipulate or analyze information in a way not used by the System or College to which the request is directed in order to respond to a request. For digital format requests, the Custodian shall alter an existing public record, or remove fields of information if the content is either required or permitted to be withheld. Additionally, the Custodian will produce a public record in a format accessible to individuals with disabilities.

Time for response to CORA Requests that comply with this procedure shall be as follows:

- The normal time for production shall be three (3) working days, beginning on the first business day after the request is received by the custodian.
- Such periods may be extended upon determination by the Custodian that extenuating circumstances exist. Such period of extension shall not normally exceed seven (7) working days. The requestor shall be notified of the extension within the original three-day period.
- These time periods for responding to requests shall not apply to (i) requests that do not comply with this policy, (ii) requests that are broad or burdensome such that they interfere with regular work duties, or (iii) requests if the requestor has failed to pay the appropriate charges.

CORA Requests shall not take priority over the regular work activities of System or College employees.

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 sole discretion, the requestor may be charged a reasonable research, retrieval and review fee based on the actual cost of responding to the request; provided, however, that the hourly rate for employee time is \$30 per hour. There shall be no charge for the first hour of employee time. If the Custodian charges research and retrieval fees under this provision, copying shall be charged at a rate of \$.25 per page.
- Where the record is a result of computer output other than word processing, the requestor will be charged, unless waived or reduced by the Custodian, the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system.
- Where the record is a result of such manipulation or analysis, the requestor will be charged, unless waived or reduced by the Custodian, the actual costs of creating the record. Persons directing subsequent requests for the same or similar records to the System or College may be charged a fee not in excess of the original fee.
- Unless waived by the Custodian, the requestor will be charged the cost of transmitting the records to the requestor by United States mail or other delivery service.

Payment must be received prior to the requestor receiving copies. Failure to make payment may result in the debt being referred to collections. A requestor who has failed to pay for past records requested must pay all outstanding charges before receiving records.

If charges are expected to exceed \$25, the Custodian will provide the requestor with an estimate of the cost of responding prior to responding and may require a deposit. If the requestor wishes to proceed once receiving an estimate, he or she must respond 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 response to proceed will not be counted against the time period set forth above.

If a requestor wishes to inspect available records in advance of receiving copies, such inspection shall be by appointment only during normal working hours. Such inspection shall occur on-site and may be supervised by a System or College representative.

Subsequent to the approval of this procedure, if CORA is amended to modify the maximum amount of any charges described above, the procedure will be applied consistent with the provisions of such amendments.

Every CORA Request must comply with this procedure. Custodians are not obligated to act upon a CORA Request unless and until the Request meets the requirements of this procedure.

## Contacting the Custodian of Records

In addition to any requirements under this procedure and CORA, a request must include the requestor's full name, mailing and e-mail address, and be sent to the System or College Custodian of Records.

## Revising this Procedure

CCCS reserves the right to change any provision or requirement of this procedure at any time and the change shall become effective immediately.

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