

## Department of Law

### Colorado Open Records Act Policy

Last Updated: July 15, 2014

The Colorado Department of Law (the “agency”) is committed to transparency and open government. The following policy has been developed in order to implement the Colorado Open Records Act (§ 24-72-201 to 206, C.R.S.) in a uniform manner and better serve the people of Colorado. This policy will help the agency balance the demands of the Colorado Open Records Act and the Attorney General’s constitutional and statutory obligations as Colorado’s chief legal officer. This policy will help ensure the agency complies in all respects with the Colorado Open Records Act and meets all of its constitutional and statutory duties to the People of Colorado in an orderly and expeditious manner. This policy is not intended to be duplicative of the Colorado Open Records Act or supersede state law.

This policy applies to all sections, units and divisions of the agency and solely to records requests where the Attorney General is the custodian of records pursuant to the Colorado Open Records Act.

#### **Office procedure for handling records requests**

All records requests submitted to the agency by mail, fax, courier, or e-mail shall be immediately provided to the Public Information Officer. All communications believed to contain a possible records request shall be provided to the Public Information Officer as soon as possible to ensure a timely response. The Public Information Officer will sign all responses to Colorado Open Records Act responses except in extraordinary circumstances.

The agency will accept only records requests made in writing or electronically via e-mail or fax. Records request made via social media shall not be accepted and must be resubmitted. Records requests or requestors that cite the federal Freedom of Information Act will be treated as though they were made pursuant to the Colorado Open Records Act.

When responding to a records request, the agency shall make every effort to respond within three working days as required by § 24-72-203(3)(b), C.R.S. The agency can add up to a seven-working-day extension if extenuating circumstances apply, as described in § 24-72-203(3)(b), C.R.S. A request is received the day an e-mail, fax or letter containing a request is opened. The three working-day response time begins the first working day following receipt of the request. A request received after noon or any day the agency is officially closed will be considered received as of the following working day.

No employee of the agency may modify, redact or omit any records they are required to provide pursuant to this policy to the Public Information Officer or his or her designee handling the request. Redactions and decisions about whether a record falls under an exemption to the Colorado Open Records Act will be made by the Public Information Officer in consultation with the Attorney General,

Chief Deputy or the appropriate staff. Staff should never assume a document is exempt and should always consult supervisors and the Public Information Officer before making a final determination.

When feasible, the agency will endeavor to provide electronic copies or files to requestors if such alternative is significantly less burdensome to provide than paper records. When responsive records cannot be easily or cost-effectively provided electronically to a requestor, the agency will work with the requestor to schedule a time to inspect the records in person. The agency is open from 8 a.m. to 5 p.m. Monday through Friday, except holidays. The Public Information Officer may grant exceptions where the agency, requestors or the records produced require special accommodations.

These provisions shall not apply to records requests received and handled by attorneys as part of their work for client agencies or officials when the custodian of records is not the Department of Law or Office of the Attorney General.

### **Fees**

When a substantial request is made — requiring the production of more than 25 pages of documents or more than one hour of staff time to locate or produce records — the agency will charge the requestor for all copying expenses and for staff time in accordance with § 24-72-205(5)(a), C.R.S., and applicable law.

Any costs charged to a requestor shall not exceed the actual cost of producing the records, in accordance with § 24-72-205(5)(a), C.R.S., and applicable law.

For requests where the agency anticipates more than 25 pages will be produced and/or more than one hour of staff time will be consumed, the agency will provide a requestor with advance notice and an estimate of compliance costs. Such costs must be paid in full before the production of records unless alternative arrangements have been made through the Public Information Officer.

### Copying documents

When the number of pages produced in response to a records request exceeds 25 pages, the agency will charge \$0.25 per page for all documents copied.

### Document retrieval and production of records – hourly rate

When researching the location, retrieving, or producing records consumes more than one hour of staff time, the agency shall charge \$20 an hour for all non-attorney staff time; \$30 an hour for all attorney staff time; and an hourly rate not to exceed \$30 an hour when specialized document production or specialized skills are required to fully comply with a records request. In extraordinary circumstances, the use of a third party contractor may be necessary and will be discussed with the requestor in advance.

By policy of this office, the requestor shall also be charged \$30 an hour for time spent by an agency attorney engaged in the practice of law directly related to a records request, including but not limited

to, the review of documents for privilege or other exemptions to production; document redaction; creation of documents that articulate the privileged nature of the requested documents; or conducting Colorado Open Records Act-related legal research.

### **The format of records produced**

The Colorado Open Records Act guarantees that “all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law” (§ 24-72-201, C.R.S.). The Colorado Open Records Act does not guarantee access to public records in a specific format. When the production or review of records in a specific format would interfere with the regular discharge of duties of Office of the Attorney General and Department of Law employees (§ 24-72-203(1)(a), C.R.S.) or levy an undue burden upon the agency, the Attorney General, Chief Deputy or Public Information Officer will determine the appropriate format for the records to be produced. The agency may require that members of the public only be allowed to review copies of documents when the custodian of records determines that allowing access to originals could interfere with the regular discharge of duties of the Office, its officers, or its staff or production of original records could jeopardize the condition of the records.

Direct any questions regarding this policy to:

Ms. Carolyn Tyler

Communications Director & Public Information Officer

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