



## **PUBLIC RECORDS REQUESTS GUIDANCE**

Prepared by:

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### **1. Introduction**

State statutes (*Neb. Rev. Stat. § 84-712, et seq.*) provide the right to examine public records “of and belonging to” the University. The University is committed to complying with the law and supports the underlying philosophy of public sector transparency. This guidance is provided to assist in timely and consistent responses to public records requests.

### **2. What is a public record?**

Public records include *all* records and documents, regardless of physical form, of or belonging to” a state agency, a county, city or other governmental bodies listed in the statute” (*Neb. Rev. Stat. § 84-712.01, et seq.*). Commonly requested public records are contracts, financial records, letters and other forms of communication. Electronically stored records are subject to this law, including e-mail. The University may have access to a record (e.g. on a non-University sponsored website), or there may be a record stored in a University office desk (e.g. an employee’s personal will); however, those are not records “of and belonging to” the University. Similarly, an employee may take a record out of the office (e.g. a file used while working from home). The fact that the file has left the work premise does not change the fact that the records it contains are records “of and belonging to” the University. The Office of the Vice President and General Counsel should be contacted should any issue arise concerning whether or not a record is a public record.

### **3. What is a public records request?**

There are no “magic” words required for a public records request—just a request and a description of the record/s sought. Most often, routine requests are made for known documents such as a particular contract or records related to a certain University action such as a Board of Regents agenda item. Contact the Office of the Vice President and General Counsel for assistance in responding to very broad requests or for requests that do not clearly identify the requested records.

### **4. Must it be in writing?**

A written request clarifies the exact nature of the record sought and can lead to a more precise and efficient response. Should a requestor with a disability be unable to provide a request in writing, the University will accommodate the individual, as required by federal law, by accepting a different reasonable means of communicating the request.

## **5. What should you do if you receive a public records request?**

University employees should forward a copy of the request in its entirety to William Lynch, Director of University Records Management, in the Office of the Vice President and General Counsel ([wlynch@nebraska.edu](mailto:wlynch@nebraska.edu) or 402-472-1232). As a University official, you may be asked to assist with the coordination and compilation of the requested records.

## **6. How long does the University have to respond to a public records request?**

A reply must be made within four business days. If the request is submitted electronically, the date of receipt shall be the date that the University official opens the electronic file. The four business days are determined by not counting the first day of receipt of the written request and counting the last day, so that a written request for copies of records received on Monday would require a response by Friday. Each request should be evaluated for an estimated length of time required to gather the records. The volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested and redaction of exempt information should be taken into account when preparing the response.

## **7. What form does a public records response take?**

The statutes allow the response to take one of three forms: (1) a grant of the request, providing the records; (2) a denial of the request, citing the legal reasons for the denial; or (3) a communication that the request cannot be reasonably fulfilled within the standard four days due to some difficulty or the "voluminous" nature of the records requested. A records request does not require the University official to abandon all other University duties in order to accommodate a response to the request within four days.

## **8. When is a public records request considered complete and final?**

A public records request shall be considered complete and final upon: (1) requestor's inspection of the records; or (2) in the event copies were requested, upon notification to the requestor that the copies requested are available but payment is not received; or (3) copies of the requested records are available for pick-up or have been transmitted to the requestor; or (4) in the event no records exist which are responsive to the request, upon notification to the requestor.

## **9. What does the University charge for public records?**

The University is allowed to charge for the actual cost of making photocopies as well as for the actual cost of the staff time reasonably needed to assemble the records. This may be particularly relevant in cases of voluminous requests. Where the nature or volume of a request requires extensive use of information technology resources, the University is allowed to charge a reasonable service charge based on the cost actually incurred for the extensive use of information technology resources. Charges shall be determined by the Office of the Vice President and General Counsel in order to ensure the charge is consistent with the law. If the cost of fulfilling a request exceeds \$50.00, the University is permitted to require a deposit prior to beginning the work associated with the request.

## **10. Can anyone, including the news media, make a public records request?**

Yes—the public records laws benefit all persons. News reporters commonly use public records requests as tools to gather information.

**11. Are there recordkeeping requirements?**

Yes—the Office of the Vice President and General Counsel shall retain the records of responses to public records requests in accordance with the University's Records Retention and Disposition Schedules. Denials of requests for University Administration records shall be retained permanently in the Office of the Vice President and General Counsel.

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