

## **40.17 Inspection of Public Records**

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**1. Purpose.** The New Mexico Inspection of Public Records Act sets forth requirements regarding the public's right to review public records. Eastern New Mexico University-Roswell (ENMU-Roswell) abides by this act by:

- A. Recognizing that a representative government is dependent upon an informed electorate.
- B. Endorsing a position that all persons are entitled to the greatest possible information regarding the affairs of government.
- C. Supporting a position that persons with such information are an essential function of a representative government.

**2. Right to Inspect Public Records.** Every person has the right to inspect any New Mexico public record. Legal exceptions to the right to inspect public records are:

- A. Records pertaining to the physical or mental examinations and medical treatment of persons confined to institutions.
- B. Letters of reference concerning employment, licensing or permits.
- C. Letters of memoranda that are matters of opinion in personnel files or students' cumulative files.
- D. Law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime.
- E. Exceptions provided in the Confidential Materials Act.
- F. Any other exception provided by law.

### **3. Definitions.**

- A. Custodian - any person responsible for the maintenance, care or keeping of a public body's records, regardless of whether the records are in that person's actual physical custody and control.
- B. Inspect - to review all public records.
- C. Person - any individual, corporation, partnership, firm, association or entity.
- D. Public Body - all branches of state and local governments and all political subdivisions including institutions of higher education.
- E. Public records - 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.

**4. Custodian of Public Records.** Each public body must designate at least one custodian of public records. The custodian must:

- A. Receive and respond to requests to inspect existing public records.
- B. Provide reasonable opportunities to inspect public records.
- C. Provide reasonable facilities to make or furnish copies of the public records during usual business hours.

**5. Procedure for Requesting Records.** Any person wishing to inspect public records may submit oral or written requests to the custodian, although procedures in this Act only apply to **written** requests.

A. Written requests:

- 1. Must provide the name, address and telephone number of the person making the request.
- 2. Must identify the records sought with reasonable particularity.
- 3. Need not state a reason for the request.

B. The custodian receiving a written request must allow the inspection.

- 1. Immediately or as soon as is practicable under the circumstances.
- 2. Not later than 15 days after receiving the request.

C. If the inspection is not allowed within three business days after receipt of the request, the custodian must explain in writing to the person requesting inspection:

- 1. When the records will be available for inspection, or
- 2. When the public body will respond to the request.

D. If a written request is made to someone other than the custodian, the person receiving the request must:

- 1. Promptly forward the request to the custodian, and
- 2. Notify the person making the request, stating:
  - a. That the person who received the request does not have custody or control of the records.
  - b. The location of the records.
  - c. The name and address of the custodian

**6. Procedure for Inspection.** The custodian must separate public records containing information that is exempt from disclosure prior to inspection. The custodian may furnish a partial printout of data in lieu of an entire database if this is deemed necessary to preserve the integrity of computer data or confidentiality of exempt material.

The custodian:

- A. May charge reasonable copying fees, not to exceed one dollar per page (8 ½ x 11), unless the law prescribes a different fee.
- B. May require advance payment of fees before making copies.
- C. May not charge a fee for the cost of determining whether a public record must be disclosed.
- D. Must provide a receipt, if requested.