

ADVISORY 274

Note: This material is written by NMSBA for informational purposes only, and not as legal advice. You may wish to consult with your attorney for further explanation and advice as to the content of this advisory.

PUBLICS RIGHT TO KNOW / FREEDOM OF INFORMATION

The Board recognizes the right of the public to information concerning its actions, its policies, and the details of its educational and business operations. The Superintendent is appointed the custodian of public records and may ~~delegate~~ designate this duty as necessary. The custodian of records shall follow the directives of 14-2-7 NMSA (1978) in providing access to public records including the posting in a conspicuous place at the administrative office of the District , and on the District's website, the proper notice of a person's rights and the procedures.

The ~~office of the Superintendent will be open to~~ custodian of records will receive requests for records inspection or copying during normal school business hours ~~from Monday through Friday.~~

Requests for access to records shall be made in writing (which may include electronic communication such as e-mail or facsimile) directed to the ~~office of the Superintendent~~ designated records custodian. ~~Any written communication should contain~~ The request shall provide the name, address and telephone number of the requestor and ~~should state the record required~~ identify the records sought with reasonable particularity. In the event that a written request is not made to the records custodian having possession of or responsibility for the public records requested, the person receiving the request shall promptly forward the request to the records custodian of the requested public records, if known, and notify the requester.

~~The Superintendent may permit access to, or provide for the copying of, the records requested within a reasonable period of time following receipt of the written request (fifteen [15] days) or will provide an explanation of a cause for delay if the records are not available and will give notification of the time the records will be available, or may deny access if there is no record to match the request. If the inspection of the requested records is not permitted within three (3) days, the Superintendent will explain in writing when the records will be available for inspection or when the Board will respond to the request. A records custodian receiving a written request shall permit the inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen (15) days after receiving a written request. If the inspection is not permitted within three (3) business days, the custodian shall explain in writing when the records will be available for inspection or when the custodian will respond to the request. The three (3)-day period shall not begin until the written request is delivered to the office of the custodian. 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 records custodian shall provide written notification to the requester within fifteen (15) days of receipt of the request that additional time will be needed to respond to the written request. If a written request is denied, the records custodian shall provide the requester with a written explanation of the denial in the manner provided by law.~~

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Requirements of access and inspection apply only to existing records and do not require creation of new records. Public inspection of a document that otherwise would be a public record may be denied by the ~~Superintendent~~ custodian of records if (1) ~~the record is made confidential by statute, or~~ (2) ~~the record involves the privacy interests of persons based on exceptions provided by law.~~ If a public record contains material that is not subject to disclosure, the District will ~~delete, if required by law, redact or separate~~ such material and make available to the requester such material in the record as is subject to disclosure.

~~Records contained on a computer will be provided only in the form in which the information can be made available using existing computer programs~~ The records custodian shall 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, the records custodian is only required to provide the electronic record in the file format in which it exists at the time of the request.

~~Copies of radio or recording tapes of discs, video or films, pictures, slides, graphics, illustrations, or similar audio or visual items or devices will not be furnished unless such items or devices have been shown or played at a public meeting of the Board.~~

~~A fee shall be levied on each request to cover the cost of making copies, staff time, computer time, etc. Fees will be collected prior to releasing material.~~

~~The fees will be based upon the following:~~

- ~~• Ten cents (10¢) per page for materials indicated as Board minutes, agendas, financial records, contracts, courses of study, or statistical summaries.~~
- ~~• Thirty five cents (35¢) per copy for materials not listed above that require additional clerical and/or professional staff time to make available.~~
- ~~• Actual cost, if available, will be assessed.~~
- ~~• Free copies shall be furnished if they are to be used in claims against the United States.~~

The custodian of records:

- may charge reasonable fees for copying the public records, unless a different fee is otherwise prescribed by law. The custodian shall periodically determine the reasonable fee based on the costs incurred by the District to make copies (not including the cost of staff time) and the amount of the copying fee shall be included in the public notice required by 14-2-7 NMSA (1978). The copying fee shall not exceed one dollar (\$1.00) per printed page for documents eleven inches by seventeen inches (17" x 11") in size or smaller;

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- 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, but not including the cost of staff time;
- may charge the actual costs associated with transmitting copies of public records by mail, electronic mail or facsimile (not including the cost of staff time);
- may require advance payment of the fees before making copies of public records for a requestor;
- shall not charge a fee for the cost of determining whether any public record is subject to disclosure; and
- shall provide a receipt, upon request.

Adopted: date of manual adoption

LEGAL REF.:

14-2-1 to 14-2-12 NMSA (1978)

~~14-3-1 to 14-3-24 NMSA (1978)~~

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