



## ADMINISTRATIVE INSTRUCTION NO. LD 01

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### Inspection of Public Records Act (“IPRA”) & Transparency

**PURPOSE:** This AI is intended to standardize the process for responding to records requests and to provide guidance to County employees to ensure that responses to such requests are in compliance with applicable laws and County procedures.

#### SECTION 1. Scope

Bernalillo County shall make County records available to the public for inspection and duplication pursuant to the provisions of the Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 through - 12 (the "Act"), and all applicable County Ordinances. The Bernalillo County Compliance Office Regulations and Procedures on Requests to Inspect Public Records shall serve to guide all County employees on: receiving, researching, responding to, and charging for all requested information provided based on standardized fees.

#### SECTION 2. Procedure

Bernalillo County recognizes and fully supports the statutory right citizens have to access public records. This Instruction acts to preserve that right, to ensure that a citizen may request to inspect the public records of the County and have that request fulfilled pursuant to law. It is the responsibility of all County employees to respond to requests to inspect County records involving records they maintain. Employees shall address requests for records in a timely manner and shall integrate requests for records they maintain into their workflow in order to assure timely compliance with the Act. For the purpose of records requests, the Compliance Office is deemed the immediate point of contact of any employee tasked with responding to a request under the Act.

#### SECTION 3. Definitions

- A. **“Exceptions”** means that a person may inspect any public records of the County except those that are specifically protected (See Section 6. A).
- B. **“File Format”** means that internal structure of an electronic file that defines the way it is stored and used;
- C. **“Inspect”** means to review all public records that are not excluded in Section 14-2-1 NMSA 1978;
- D. **“Person”** or **“Requester”** means any individual, corporation, partnership, firm, association or entity;
- E. **“Public records”** or **“County records”** means 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 Bernalillo County and relate to public business. County records do not include:
  - 1. Publicly available books, periodicals, or other publications that are owned or copyrighted by non-County sources; or

2. Personal records in possession of County employees that have not been circulated, were not required to be created or retained by the County, and can be retained or discarded at the employee's sole discretion, or records of a personal nature that are not associated with any government business; or
  3. Any other record exempt from disclosure as provided by law.
- F. **“Record Custodian”** means any person responsible for the maintenance, care or keeping of a public body’s public records, regardless of whether the records are in that person’s actual custody or control.

#### **SECITON 4. Department Responsibility**

- A. **The Compliance Office:** As the immediate point of contact of County records, the Compliance Office shall have primary responsibility for ensuring compliance with the Act. The Compliance Office shall train and communicate with all primary and secondary departmental Record Custodians regarding updates on issues related to the Act, public records or applicable ordinances. The Compliance Office shall also ensure that the Regulations and Procedures on Requests to Inspect Public Records are up-to-date and compliant with the law. The Compliance Office shall advise and direct County personnel on issues related to inspection of records.
- B. **Department Directors:** All Department Directors shall appoint a primary and a secondary Record Custodian and provide the Compliance Office with all applicable contact information for the assigned Record Custodians. Upon a vacancy in a department of the designated position, the Director shall inform the Compliance Office of the vacancy and shall provide either a replacement designee, or an acting designee until a permanent Record Custodian is selected.
- C. **Record Custodians:** Records Custodians shall attend training with the Compliance Office as soon as practicable after their designation to the position and attend annual open records training. The Record Custodian shall make every reasonable attempt to notify the Compliance Office, in advance of any planned absences or vacations from work in addition to the Secondary Record Custodian that will handle records requests in the Custodian's absence. The Record Custodian shall expeditiously review and respond to all records requests, delegate responsibilities within the department in order to respond to requests, and maintain communication with the Compliance Office regarding requests and responses.

#### **SECITON 5. Receiving, Processing and Responding to IPRA Requests**

- A. **Receiving the Request:** All requests must be directed to the Compliance Office for proper Record Custodian assignment. If the Record Custodian receives the request directly, he or she shall forward the request through the [transparency portal](#) for proper tracking and assignment.
- B. **Contents of the Request:** Requests must describe the records sought with sufficient detail to allow County personnel to reasonably identify and locate the records. If it is determined that the request does not sufficiently describe the records sought, the Record Custodian shall advise the Requester why the request is insufficient. The Record Custodian shall also extend to the Requester an opportunity to confer with County personnel in order to reformulate or clarify the request in a manner that will meet the requirements of this regulation. All written requests must provide the name, address and telephone number, or email address of the person seeking access to the records. If a request is received by email, the sender's email address is sufficient contact information for a response, but the person making the request may provide alternate contact information for the response. The County shall respond to a request in the same form as it was received unless alternate

arrangements are made or requested.

- C. **Oral Requests and Clarification of Requests:** To obtain full advantage of the inspection right provided by the Act, a request to inspect public records should be made in writing. The Act does not prohibit oral requests (and, in fact, expressly authorizes them), but if an oral request is made, the time constraints imposed on a public body for allowing inspection and the procedures discussed in this instruction will not apply. Record Custodians will respond to oral requests immediately, if the records are readily available, or as soon as practicable under the circumstances. If the Record Custodian receiving the request is uncertain of the nature or scope of the request or if the records sought are not readily available, he/she may require that the Requester reduce the request to writing or to clarify the request.
- D. **Reason not required:** Persons requesting County records need not state the reason for such request and the County shall not require a reason for the request. This provision does not prohibit the County from seeking clarification from the person making a request in order to reasonably identify the records requested.
- E. **Response to Requests:** The assigned Record Custodian shall respond to written requests for nonexempt County records immediately, or as soon as practicable under the circumstances. If it is not possible to respond within three (3) business days from the date the request is received, the Record Custodian shall inform the Requester, in writing, that the records are not yet available for inspection, but that the County will provide a response within fifteen (15) days from the date the request was received.

**Large Requests:** If a written request seeks a large amount of records, is excessively burdensome or broad, or where other unusual circumstances exist, the Record Custodian shall provide the Compliance Office with the request and include the circumstances. The Record Custodian will notify the Requestor, in writing, within fifteen (15) days of receipt of a request that additional time is necessary to respond. The Record Custodian shall then respond to the request within a reasonable period of time under the circumstances and may schedule multiple inspection sessions, when appropriate. When possible, the Record Custodian shall obtain a written agreement for the Requester as to the schedule for inspection. If a portion of the records requested are available within the fifteen (15) day period, the Record Custodian will notify the Requester of the availability at the same time the Requester is notified that more time is necessary to complete the response to the request. If Record Custodians wishes to have guidance from the Compliance Office prior to responding to requests, they may contact the Compliance Office at any time.

## **SECTION 6. Exempt Records**

- A. **Exemptions:** As written, the Act (NMSA 1978, § 14-2-1 (A)) exempts from disclosure the following categories of records:
  - 1. Medical Records
  - 2. Letters of Reference
  - 3. Matters of Opinion
  - 4. Law Enforcement Records
  - 5. Records identified in the Confidential Materials Act
  - 6. Tactical Response Plans
  - 7. Protected Personal Identifier
  - 8. All records identified as exempt under any other provision of state or federal law
- B. **Determination of Exempt Records:** Upon receiving a request, whether oral or written, a Record

Custodian shall first determine in consultation with the Compliance Office and the County Attorney's Office whether any records sought are exempt from disclosure as defined in this section. When a Record Custodian believes a request seeks records that contain exempt documents or information, the Record Custodian shall, prior to the release of the records contact the Compliance Office for confirmation that the records are in fact exempt. If it is determined that records are exempt, the County shall:

1. Separate the exempt records from public records and retain exempt documents; or
2. Redact or delete exempt information from documents that are otherwise public records, and
3. Follow the procedures for approval by the County Compliance Office in Section 7. of this Administrative Instruction.

C. **Database Records:** Where a request seeks information maintained in a computer database, which cannot practically be released in its entirety or which contains confidential or exempt information, the Record Custodian may release a partial printout or partial electronic copy, if possible, of the database subject to the following requirements:

1. When records maintained electronically include items subject to the Act as well as items that are confidential, or exempt from disclosure, an agency in designing its information retrieval methods whenever practicable and reasonable, shall do so in a manner that permits the segregation and retrieval of available items in order to foster maximum public access.
2. When information is sought that is available under the Act and may be retrieved by means of existing computer programs, the Record Custodian of the records should retrieve the data that it has the capacity to retrieve. If the information can be retrieved from the computer only by means of new programming or the alteration of existing programs, and those steps would be the equivalent of creating a new record the request may be satisfied by allowing inspection of a partial printout of the database; however, programming from extraction of data shall not be considered creating a new record in such situation. The Record Custodian shall use available electronic means to provide copies of the requested records and may not insist on printing out the data requested and charging a per page copying fee.
3. When a Requester specifies that he or she wishes to receive paper copies of electronic records, including but not limited to database/s in computer programs, the Record Custodian shall provide the records in the requested format if producing paper copies is possible, subject to the established fees identified in Section 8 of this Administrative Instruction.
4. The County will produce electronic records in the same format in which the records exist.

D. **Computer Security:** No inspection of records shall be allowed if disclosure would facilitate unauthorized access to an agency's electronic information systems or clearly jeopardize or compromise information security. Records inspection and copying shall be accomplished in a manner that does not allow the Requester to access the computer system where the integrity of the information of the computer would be jeopardized.

## **SECTION 7. Denial & Referral of Requests**

If, as a result of the review of a request, the Record Custodian finds that the County should deny the request, in whole or in part, the Record Custodian shall submit that finding, along with the request, to the Compliance Office, who shall confer with the County Attorney, to make an independent determination whether the County should deny the request, in whole or in part. If it is determined that the County records sought are exempt from disclosure, the Compliance Office shall notify the Record Custodian of the determination. That notification shall contain all information as outlined for a denial in the Act, and

the Record Custodian will notify the Requester of such finding. If the record is deemed a public record, the Record Custodian will disclose the record.

**SECTION 8. Fees**

The following shall be the standard fees that may be charged by County Departments for the duplication or reproduction of any public records pursuant to a request under the Act. Offices of County elected officials (Assessor, Clerk, Probate Judge, Sheriff, or Treasurer) may create their own fee schedules for documents subject to approval by the County Commission.

<b>Record Type</b>	<b>Fees</b>
Hardcopy Format 8.5 x 11	\$0.50 per page
Hardcopy Format 8.5 x 14	\$0.50 per page
Hardcopy Format 11 x 17	\$0.50 per page
Book (regardless of size)	\$0.50 per page
Map (regardless of size)	36x41 color is \$15 and BW\$7, 18x24 is \$10
Map 8.5 x 11, per page	\$1.00 per page
Map 8.5 x 14, per page	\$1.00 per page
Map 11 x 17, per page	\$1.00 per page
Maps Given on CD	\$1.00 per image
Hardcopy Photo (regardless of size)	\$0.50 per photo
Hardcopy Photo 4 x 6	\$1.00 per photo
Hardcopy Photo 5 x 7	\$1.00 per photo
Photos on CD	\$6.75 per CD
Hardcopy Report (regardless of size)	\$0.50 per page
Hardcopy Report 8.5 x 11	\$0.50 per page
Hardcopy Report 8.5 x 14	\$0.50 per page
Report on CD	\$6.75 per CD
Additional Certified Fee	\$0.50
Electronic Format 8.5 x 11	\$0.50 per page
Electronic Format 8.5 x 14	\$0.50 per page
Electronic Format 11 x 17	\$0.50 per page
Additional Records (Labels)	Labels- .02 per label with a \$75 deposit 1.00 per certification