

University of Nebraska Kearney
Handling Process for Public Records Requests

State statutes (Neb. Rev. Stat. 84-712, et seq.) provide the right to examine public records “of and belonging to” the University of Nebraska at Kearney (UNK).

Key Changes to Statutes – Effective Sept. 6, 2013:

- a) If a copy of a public record is available on the Internet then the custodian is not required to copy the record, unless the requestor does not have access to the Internet.
- b) The cost of the record will not include the first 4 hours of salary for the employee identifying or copying the record.
- c) The fee shall not include a charge for an attorney to review the record seeking a legal basis to withhold the record.
- d) Contractors may be employed to fulfill requests where actual added response costs are estimated to exceed \$50.
- e) When an estimate is provided, the requestor has 10 business days to review the costs and negotiate or narrow the request.

Public record defined Public records include all records and documents, regardless of physical form, of or belonging to the university. Records include, but are not limited to, printouts, electronic data, discs, tapes, and photocopies. Due to the significant impact email systems have on the creation, storage, use and management of official state government records, the state has described effective methods to assist state agencies in managing email records throughout their lifecycle. Visit <http://www.sos.ne.gov/records-management/emailmgmt.html> and select “Agency Email Training” from the Email Management Training Tools menu.

Public records request responsibility To ensure compliance with, and consistency of response, public records requests will be processed through the Assistant Vice Chancellor of Communications and Community Relations Kelly Bartling, at: bartlingkh@unk.edu and reviewed by the Senior Advisor to the Chancellor for Executive Affairs Dr. Neal Schnoor (schnoorn@unk.edu) and the UNK Records Officer. Any request submitted to any other campus entity should be routed to the Assistant Vice Chancellor of Communications and Community Relations.

Submitting a public records request No specific language is required for a public records request. However, requests must be submitted in writing with a clear description of records sought.

- a) Email submission is preferred. Send the request to Asst. Vice Chancellor for Communications and Community Relations, Kelly Bartling, at: bartlingkh@unk.edu
- b) If submitted by mail, the request should be addressed to: Kelly Bartling, Communications and Community Relations, Founders Hall 2118, 905 West 25th Street, Kearney, NE 68849-1220 (Direct Line: 308-865-8455; Fax: 308-865-8102).
- c) Should a requestor, due to disability, be unable to provide a request in writing,

UNK will provide accommodation as required by federal law, by accepting a different reasonable means of communicating the request.

Receipt of a public records request Any employee, upon receipt of a request, should forward a copy of the request in its entirety to Kelly Bartling. It is advisable to copy to Dr. Neal Schnoor (schnoor@unk.edu).

Office of the General Counsel receipt of a public records request When a request applicable to UNK is initially received by the Office of the General Counsel, that office will send a copy of the request to Asst. Vice Chancellor for Communications and Community Relations Kelly Bartling.

Statutory Requirements for responding to a public records request

- a) A reply must be made within **four business days after actual receipt** of the request. If the request is submitted electronically, the date of receipt shall be the date that the employee opens the electronic file.
- b) The **four business days after actual receipt** do not include the first day of receipt of the written request. Therefore, for example, an emailed request for records received on Monday would require a response on the following Friday.
- c) The statutes allow the response to take one of three forms: (1) a grant of the request by 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 (Neb. Rev. Stat. 84-712 (4)(c)). When an entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies and special service labor charge (in excess of the first four cumulative hours spent searching, identifying, physically redacting, or copying records), and an opportunity for the requester to modify or prioritize the items within the requests. The requester shall have 10 business days to review the estimated costs, including and special service charge, and request the custodian to fulfill the original request, negotiate with the records custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the records custodian within 10 business days, the records custodian shall not proceed to fulfill the request.

Handling process

First-Time/Unusual Requests

General Counsel is normally consulted relative to requests and especially for first-time and/or unusual requests.

Awareness

Key personnel and supervisors will be informed of any request.

Fulfillment

Kelly Bartling (or Neal Schnoor in her absence) will request information from the appropriate university office/personnel, compile the requested information, prepare a cost estimate if needed, and prepare a draft response.

Review of Denials

The draft response and documents (if included) must be reviewed by the by General Counsel's Office before being sent to the requester.

Transmittal

- a) The draft response and documents (if included) should be administratively reviewed by the Chancellor's Office before being sent to the requester. Upon approval, the response will be sent to the requester. The preferred method of transmittal will be by email. With the response and documents (if included) converted to a PDF format.
- b) When the requestor does not provide an email address the response will be sent by mail.

Charges The following charges may be invoiced by the Business Office when sending the documents to the requestor:

If the cost of fulfilling a request exceeds \$50, UNK is permitted to require a deposit before beginning necessary processes associated with responding to the request.

Copy Charges

- a) 25 cents for each copy sized 8 1/2 x 11 or smaller with duplexed copies counting as 2 pages
- b) 50 cents for each copy for legal size
- c) Actual cost for each copy of a larger than legal size page or document that cannot be copied using ordinary copying equipment (e.g. engineering drawing, x-ray, specimen slide)

Employee Salary

UNK may charge for staff salary associated with fulfilling the request (retrieval, compiling data, etc.). Pursuant to the Act, however, the cost will not include the first 4 hours of salary for the employee identifying or copying the records. Hourly wage and salary costs ought to be calculated by including the benefits shown on an employee's Total Annual Compensation Statement. Each major administrative unit should keep track of the time spent on responding to any request. This is to ensure a record is made of costs associated with complying to requests and the unfunded mandates of no charges for the first four hours of employee time or attorney review.

Information Technology Services

Some requests may require computer run time and any necessary analysis and programming for fulfillment. As such, costs related to programming, extracting, compiling, displaying data will vary on a case-by-case basis.

External Contractor Services

Contractors may be employed to fulfill requests where costs are estimated to exceed \$50.

UNK will charge for actual costs incurred, whether they are higher or lower than the

estimated costs approved by the requestor.

Assistance

- a) As previously stated, UNK may contact the NU Office of the General Counsel for guidance.
- b) Additionally, other university employees may be contacted for information related to a request or for guidance.

Recordkeeping

- a) Responses to public records requests shall be retained in accordance with the University's Records Retention and Disposition Schedules. Denials of requests for records and documents shall be retained permanently.
- b) The Chancellor's Office will retain an electronic copy of the request and documents (if included) sent.