

# **Board of County Commissioners**

## **Okaloosa County, Florida**

Title: Public Records Request Policy

Date Adopted:

Effective Date:

Revised: October 10, 2008/March 31, 2015/May 19, 2015/November 15, 2016

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### **1. PURPOSE**

The purpose of this Public Records Request Policy is to provide guidance to Okaloosa County departments and staff on how to properly coordinate and respond to public records requests from any individual or entity and to ensure that all responses comply with Chapter 119 of the Florida Statutes, also known as the “Public Records Act.”

### **2. POLICY**

This policy shall provide guidelines and procedures which shall apply County-wide. Directors will, at least annually, inform all affected employees within their work areas of this policy and its requirements.

The Risk Management Office is designated as the County’s Public Records Coordinator for all public records requests. Each department director shall designate an employee from his or her respective department to serve as Public Records Custodian for his or her department and assist the Coordinator where necessary. A list of the designated employee for each department shall be maintained by the Risk Management Office.

County department directors are responsible for training their designated employees on what public records are available in their departments and what sensitive information those records may contain. Risk Management staff shall periodically provide County-wide training opportunities for Public Records Custodians.

### **3. DEFINITIONS**

#### **3.1. What is a Public Record?**

**3.1.1.** Section 119.011(11). F.S., defines “public records” to include:

**3.1.1.1.** all documents, papers letters maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

**3.1.2.** Through case law, the courts have interpreted a true determining factor for a public record as those records that **“perpetuate, communicate, or formalize knowledge.”** *Rogers v. Hood*, 906, So. 2d, 420 (Fla. 1979).

#### **4. PROCEDURES**

When a County employee receives a public records request, the following procedures shall apply:

4.1. If the request is verbal, the employee receiving the request shall write down as much information regarding the request as possible; i.e., person making the request including contact information, what documents are being requested, and any specific information such as dollar amount threshold, delivery expectations, time expectations, etc.

4.2. NOTE: A public records request does not have to be in writing as a prerequisite for completing a request.

4.3. The employee receiving the request shall notify Risk Management of the public records request and provide a copy of any written request. This notification shall be done as soon as possible but no later than two (2) business days from receipt.

4.4. Upon receipt of the public records request, Risk Management shall acknowledge receipt of the request to the requestor and shall coordinate compilation of the requested records with the appropriate departments as necessary.

4.5. If the request involves Board action or approval, Risk Management will notify the Deputy Clerk to BCC in the Clerk of Circuit Court's Office to coordinate the records request.

4.6. Risk Management will direct and provide all correspondence to the requestor of the records unless other arrangements are made between Risk Management and the department possessing thepublic records.

4.7. Risk Management will maintain communication with the County department's public records custodian possessing the public records and will notify the department when all aspects of the public records request have been satisfied.

4.8. Risk Management shall notify Information Technology Department and other departments where necessary to ensure backups are made for those public records requests that become and/or are made on behalf of litigation or when otherwise required.

4.9. If litigation is pending or reasonably anticipated, records relating to the subject of the litigation shall not be disposed of in any manner and Risk Management shall be provided notice of the pending or anticipated litigation. The Risk Manager will provide notice when it is permissible to dispose of records relating to litigation.

4.10. "Standing" public records requests: The County cannot honor public records requests that demand future copying or production (i.e., "please forward all future meeting minutes..."). The Public Records Act requires production of present documents that are available and does not contain provisions to require a custodian to foresee the future as future documents may or may not be generated.

4.11 Information Technology Department shall be the repository of all electronic mail ("email") that is transmitted or received on the County system. In the event that there is a public records request which includes a request for emails, the search for the responsive emails shall be conducted by the Information Technology Department. Once the search has been completed, it will be the responsibility of the respective departments to review the

responsive emails to determine whether any exception or confidentiality provision would apply.

## **5. EXCEPTIONS TO PUBLIC RECORDS INFORMATION**

5.1. Although documents that perpetuate, communicate, or formalize knowledge are public records, not all information found in that public record is necessarily subject to dissemination or release. For example, employee personnel files are public records; however, information such as social security numbers is protected and is not to be released.

5.2. The following public documents/instruments are examples that may include sensitive material that is either confidential or exempt from the Public Records Act or some other statutory exemption:

5.2.1. 911 recordings

5.2.2. EMS run logs (patient information)

5.2.3. Employee records

5.2.4. Settlement documents

5.2.5. Attorney client communications/bills

5.3. This list is not all encompassing. County departments shall seek guidance from their Public Records Custodian(s), the Risk Manager, or the County Attorney if they are unsure of what constitutes sensitive information prior to release of the public record(s).

5.4. Documents that contain protected exempt material will be redacted and the document shall then be released to satisfy the public records request.

## **6. FEES**

All fees imposed for duplication of printed public records will comply with the Public Records Act, Chapter 119 F.S. Fees may only be imposed for duplication of public records and will be assessed through Risk Management.

6.1. Unless specifically stated otherwise through state statute, the following statutory fees will apply to copying of public records:

6.1.1. single sided page (letter & legal): \$ .15 per page

6.1.2. double sided page (letter & legal): \$ .20 per page

6.1.3. certified copy: \$1.00 per page

6.1.4 optical disk charge if required \$1.00 per disk

6.1.5 email search: \$48.00 base charge per search  
(depending on the extensive nature of the email search, additional costs may be charged).

6.2. Exception: County maps, aerial photographs, large format photos may be reproduced and a fee charged to cover the materials used for those duplications. A reasonable labor and overhead charge associated with the duplication may also be included.

6.3.

If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.

6.3.1. Florida courts have stated that “extensive” means taking more than fifteen (15) minutes to locate, review and copy the requested information.

6.3.2. To assess the fee for employee hours spent, County departments will ascertain the hourly rate of the lowest paid County position able to provide the duplication. For example, the County may not charge the hourly rate of a department head, supervisor, or director unless the person in that position was the only one able to locate, review and copy the requested materials.

6.4. Deposits: If a request is voluminous by nature, the County may require a deposit before starting the reproduction. The employee coordinating the request shall review the materials needed, develop an estimate for the cost for reproduction and notify Risk Management. The requesting person or entity shall be notified by Risk Management of the estimated cost to reproduce the records and any deposit requirement, if applicable.

6.4.1. In the event there are cost overages, the additional amount will be billed to the requesting person or entity. Any extra monies will be returned.

6.4.2. Once the County receives the fees associated with reproduction, the County shall provide the copied information.

## **7. RECORDS RETENTION**

Departmental Public Records Custodians, under direction of their department directors, are responsible for retaining and destroying public records in accordance with the retention schedules set forth by the Division of Library and Information Services (division) of the Department of State of Florida: <http://dlis.dos.state.fl.us/recordsmgmt/publications.cfm>