

# DRAFT

## MONTANA UNIVERSITY SYSTEM PUBLIC RECORDS REQUESTS RESPONSE GUIDELINES AND FEE SCHEDULE

### I. Purpose

To provide guidance and a consistent response to public records requests, the Montana University System has adopted these guidelines.

Nothing herein will override a right to privacy, a privilege, or matters of individual or public safety provided by the Montana Constitution, statutes, and rules addressing confidentiality, or other rulings addressing privacy and safety protections.

### II. Scope

These guidelines will guide the response to public records requests to the Office of the Commissioner of Higher Education (OCHE) and to all campuses of the Montana University System.

### III. Processing Public Records Requests

A. All public records requests made as a "Freedom of Information Request" (FOIA) or "Right-to Know Request" under Montana law or "Freedom of Information Request (FOIA)" under federal law must be in writing and from a person with a physical address. Names of individuals requesting public records are public information. The Office of the Commissioner and each campus will identify the office to which these requests are sent for review.

B. Most public records requests require legal review to determine if there are matters of individual privacy contained in the records and to determine whether the records requested constitute public records under the Montana Constitution and related statutes. The nature of the request and the volume of work are will be factors in deciding whether to charge legal fees. Legal Counsel may add a disclaimer to the release of information.

C. The Montana University System is not required to create or customize public records in response to a request. Additional fees may be charged if research is performed or a report is created or otherwise customized in response to a request.

D. Certain costs associated with fulfilling public records requests ~~should may~~ be charged to the requestor pursuant to ~~sections § 2-6-10062(2) and 2-6-110(2)~~. MCA. These charges include, but are not limited to:

- a. custom computer programming;
- b. research and analysis;
- c. copying of electronic or paper records;
- d. e-mail restores
- e. services required of ~~the Information Technology departments~~ information technology personnel; and
- f. legal fees

~~E. All expenses must be reimbursed based on the actual cost of fulfilling the public records request, not on estimated costs. Payment for records requests must be received by the responsible office and the check cleared prior to the release of the information. The requestor must be informed if the fulfillment of the request is projected to exceed the estimated costs and must agree in writing to the new estimate before work continues.~~

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Any request that is estimated to cost \$25.00 or more shall be paid prior to beginning the work on the request. Any estimate must be paid in full and if the actual charges are less than estimated, a refund will be provided to the requester.

Any request that is less than \$25.00 must be reimbursed based on the actual cost of fulfilling the request, not on the estimated cost.

Payment for records requests must be received by the responsible office prior to the release of the information. The requestor must be informed if the fulfillment of the request is projected to exceed the estimated costs and must agree in writing to the new estimate before work continues.

Additional requests will not be honored until all delinquent fees are received.

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## IV. Protection of Records

OCHE and the campuses must maintain the integrity of original records. If requested records might be altered, stolen, or are irreplaceable, staff must supervise (no fee associated) the examination and copying of the records by the requestor.

## V. Protection of Privacy and Safety

OCHE and the campuses will provide access to and/or copying of unprotected Department records. Records and materials that are constitutionally protected from disclosure are not available to the public (2-6-1002), MCA as well as safety and security records, 2-6-1003, MCA. In cases where there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets (30-14-402(4), MCA), records and materials subject to a legal privilege and matters related to individual or public safety, the records containing this information will not be disclosed or will be redacted to remove the protected information.

## VI. Covered Charges and Actual Costs

Attachment A contains the fee schedule for public records requests.

## VII. Cross-Reference Guide

Title 2, Chapter 6, MCA.

Montana Constitution, Article II, Sections 9 and 10.

30-14-402(4), MCA.

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## Attachment A- Fee Schedule to be utilized throughout the MUS

### Photocopying Charges

Per page \$0.35 (Staff time spent on copying is included in the per-page charge.)

Records recalled from offsite storage Actual cost

Staff time to gather and prepare materials for copying Actual Cost ~~\$15.92 per hour~~

If the request is for an extraordinarily large volume of printed material, copies may be made by Print and Mail Services on campuses Actual cost

If appropriate, a requesting party may bring a copier, scanner, or personal computer onsite to make copies. No charge

### Electronic Media Copies

Staff time for copying electronic files hour ~~\$15.92~~ Actual cost per hour after first half

Electronic media Actual cost

Mainframe and mid-tier processing charges, including processing time, transmission time, and report writing charges Actual cost

### Legal Review

Legal review and/or redaction of information hour Actual Cost ~~\$60.57 per hour after first half~~

### Other Rates

Custom computer programming hour Actual Cost ~~\$26.36 per hour after first half~~

Research and/or analysis whether involving paper or electronic records; alteration or creation of a new report. hour Actual Cost ~~\$25.31 per hour after first half~~

E-mail restore Actual cost

Other Information Technology Services Actual cost