



COLORADO OPEN RECORDS ACT (CORA) POLICY

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POLICY:

The Northwest Colorado Council of Governments (NWCCOG) is committed to transparency and open government. The following policy specifies how the Colorado Open Records Act (§ 24-72-201 to 206, C.R.S.) will be applied in a uniform and reliable manner. This policy will help ensure NWCCOG complies in all respects with the Colorado Open Records Act and meets all of its constitutional and statutory duties to the People of Colorado in an orderly and expeditious manner. This policy is not intended to be duplicative of CORA or supersede state law. This policy applies solely to records requests where NWCCOG is the custodian of records pursuant to CORA.

OFFICE PROCEDURE FOR HANDLING RECORDS REQUESTS:

All records requests made of NWCCOG shall be immediately provided to the Executive Director. NWCCOG shall accept only records requests made in writing or electronically via e-mail or fax. Records requests or requestors that cite the federal Freedom of Information Act shall be treated as though they were made pursuant to the Colorado Open Records Act.

When responding to a records request, NWCCOG shall make every effort to respond within three working days as required by § 24-72-203(3)(b), C.R.S. NWCCOG can add up to a seven-working-day extension if extenuating circumstances apply, as defined in § 24-72-203(3)(b), C.R.S. The three-day response time starts when a records request is in NWCCOG’s possession. A request is received the day an e-mail, fax or letter containing a request is opened. A request received after 5 p.m. or any day NWCCOG is officially closed will be considered received as of the following business day.

When feasible, NWCCOG will endeavor to provide electronic copies or files to requestors if such alternative is significantly less burdensome to provide than paper records (see “The format of records produced” below). When responsive records cannot be easily or cost effectively provided electronically to a requestor, NWCCOG shall work with the requestor to schedule a time to inspect the records in person. These procedures do not apply to records requests received and handled by employees as part of their work for client agencies or officials when the custodian of records is not NWCCOG.

DETERMINATION BY LEGAL COUNSEL REQUIRED:

The Colorado Open Records Act requires that certain records be made available and requires that access to other records be denied. The Executive Director will consult with legal counsel to ensure that NWCCOG is in compliance with these requirements before determining whether access to records should be granted or denied.

FEES FOR DOCUMENT RETRIEVAL, REVIEW, COPIES, AND RELEASE OF RECORDS:

When a substantial request is made – requiring the production of more than 25 pages of documents or the use of more than two hours of staff time to locate or produce records – NWCCOG shall charge the requestor for

all copying expenses and no more than \$30.00 per hour, or as that fee is adjusted pursuant to 24-72-205(6)(b) for research and retrieval time in excess of two (2) hours pursuant to § 24-72-205(6)(a), C.R.S.

When the number of pages produced pursuant to the Colorado Open Records Act exceeds 25 pages, NWCCOG shall charge \$0.25 per page or actual cost for non-standard pages for all documents copied. The Office also may charge an hourly rate greater than \$20 an hour when specialized document production or specialized skills are required to locate, compile or produce records pursuant to a records request, including the use of third-party contractors. Any costs charged to a requestor shall not exceed the actual cost of producing the records, per § 24-72-205(5)(a), C.R.S.

For requests where NWCCOG anticipates more than 25 pages will be produced and/or more than two hours of staff time will be consumed, NWCCOG shall provide a requestor with advance notice and an estimate of compliance costs. Such costs shall be paid in full before the production of records unless alternative arrangements have been made through the Executive Director.

THE FORMAT OF RECORDS PRODUCED

The Colorado Open Records Act guarantees that "all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law" (§ 24-72-201, C.R.S.). The Colorado Open Records Act does not guarantee access to the documents in a specific format. When the production or review of records in a specific format would interfere with the regular discharge of duties of NWCCOG employees (§ 24-72-203(1)(a), C.R.S.) or levy an undue burden upon NWCCOG, NWCCOG legal counsel will determine the appropriate format for the records to be produced. Records maintained electronically may be produced electronically at NWCCOG's discretion, subject to compliance with applicable requirements of § 24-72-203(3.5), C.R.S.; therefore, records may or may not be provided in their native format.

NWCCOG may require that members of the public or press be allowed to review only copies of documents when the custodian of records determines that allowing access to originals could interfere with the regular discharge of duties of NWCCOG or its staff or production of original records could jeopardize the condition of the records.

OMBUDSMAN PROGRAM RECORDS, FILES, OR TESTIMONY

Federal law sets forth a procedure governing access to the ombudsman program's records and files and provides that state law shall be consistent with federal law. 42 U.S.C. § 3058g(d).

It is the intent of the state law to be consistent with federal law. § 26-11.5-104, C.R.S. and § 26-11.5-108(3), C.R.S.

Under federal law, "the files and records" of the long-term care ombudsman program: "may be disclosed only at the discretion of the [State] Ombudsman (or the person designated by the Ombudsman to disclose files and records)." 42 U.S.C. § 3058g(d)(2)(A).

Furthermore, under federal law, the "identity of any complainant or resident with respect to whom the [Ombudsman] Office maintains such files or records" cannot be disclosed without either consent from the complainant or resident, or from their legal representative, or pursuant to a court order. 42 U.S.C. § 3058g(d)(2)(B).