

1. *Purpose*

To establish a process for responding to public records requests and to ensure that confidential and restricted records are maintained and made accessible in accordance with state statutes.

2. *Scope*

Except as herein provided, all of the public records shall be open for public inspection and copying, but any employee or Office of the Department having the custody of such records may make reasonable rules governing the time, place and manner of inspection and copying. Further, copies or electronic duplicates of Department records may be substituted in lieu of the original records and reasonable costs may be collected. Public records, the disclosure of which would invade a person's right to privacy, breach a legally recognized duty of confidence or which constitute attorney-client communications between Department staff and the Attorney General's office, may not be available for public inspection. A determination of nondisclosure must be made in consultation with the Attorney General's Office.

3. *Legal Citations*

- a. Nevada Revised Statutes (NRS) 239 – Public Records*
- b. NRS 239B – Disclosure of Personal Information to Governmental Agencies*
- c. NRS 603A – Security of Personal Information*
- d. Nevada Administrative Code 239.570 – 239.764 – Records of State Agencies*
- e. State Administrative Manual Chapter 0400 - Records*

4. *Definitions*

Balancing Test - *is a determination of whether the interest in public disclosure is outweighed by public or private interests in maintaining the confidentiality of a particular public record.*

Confidential Records – *are Records declared by law to be confidential and not public records. Includes, but is not limited to Personal Information consisting of a natural person's first name or first initial and last name in combination with any one or more of the following data elements, when the name and data elements are not encrypted:*

- a. Social security number;*
- b. Driver's license or identification card number;*
- c. Account number, credit card number or debit card number in combination with any security code, access code or password that would permit access to a person's financial account.*

The term does not include the last four digits of a social security number or publicly available information that is lawfully made available to the general public.

(NRS 603A.040)

Copyright - is the exclusive right of the author or creator of a literary or artistic property to copy, print, sell, license, distribute or transform to another medium. The fact that a record in the possession of the Department has been copyrighted does not necessarily forbid its reproduction in response to a public request.

Custodian of Record – the person authorized to have the care, custody and control of a record. At the Department of Education, the Office Director is charged with the care, custody and control of records maintained by the department.

Duplicate – means any accurate and unabridged copy of a record or series of records which is not an original

Electronic Record – means a representation of a record in electronic format containing information, knowledge, facts, concepts or instructions which is being prepared or has been prepared and is intended to be processed, is being processed or has been processed in a system or network.

Extraordinary Request - is a public record request which involves information that is not in a readily available medium or may require research, analysis or extensive staff time to compile or retrieve. Such requests may apply to individual or multiple departments.

Legal custody – means all rights and responsibilities relating to the maintenance of and access to a record or series of records vested in the Custodian of Record.

Media - includes recognized members of newsgathering agencies, reporters, or other correspondents.

Multi-Office Request - is a public record request which requires production of records from multiple Offices within the Department.

Nonrecord – means published books and pamphlets, books and pamphlets printed by a printer, worksheets used to collect or compile data after it has been included in a record, answer pads for a telephone or other informal notes, unused forms, brochures, newsletters, magazines, newspapers, scrapbooks and property left or deposited with an Office which would otherwise be defined as a records except that the ownership of that property does not reside with the Department.

Public record – means any record in any form, not declared by law to be confidential, which has been produced or received by the Department of Education and is maintained by any Department Office for the purposes of performing a function of the Department. The term does not include books, pamphlets, worksheets, and informal notes. See “Records with No Retention Value” contained in this manual, which are not considered public records. No record that has been declared by law to be confidential constitutes a public record.

Records Officer – means the Deputy Superintendent for Administrative & Fiscal Services

Requestor - is the person making a request to review or copy public records maintained by the Department of Education.

Routine Request - is a public record request for Departmental public records of regular and minimal difficulty to provide.

5. *Forms*

- 511-1 *Public Records Request Form*
- 511-2 *Data Services & Research Request*
- 511-3 *Records Request Log*
- 511-4 *Initial Receipt Response*
- 511-5 *Fee Schedule for Requests for Public Records*

6. *Policies*

- a. *All public records, unless declared by law to be confidential, must be open at all times during office hours to inspection by any person, and may be copied.*
- b. *Original public records must not be removed from Department offices during inspection by members of the public and must be monitored by an employee while any review is being conducted.*
- c. *No cost will be assessed for inspection of existing records. However, copies of public records may be obtained for a standard copying fee that is outlined in Form 511-5 Fee Schedule for Requests for Public Records.*
- d. *If a record contains information deemed confidential, a request to inspect or copy the record can not be denied if the confidential information can be redacted, deleted, concealed or separated from the record so the remainder of the record can be inspected or copied.*
- e. *Electronic databases that contain the electronic mail addresses and/or telephone numbers of individuals that have provided said addresses or numbers for the purpose of or in the course of communicating with the Department are confidential and may not be disclosed in its entirety as a single unit unless in response to an order issued by a court. However, individual telephone numbers or electronic mail addresses of a person are not confidential and may be disclosed individually.*
- f. *Public records must be provided in any medium in which they are readily available. The custodian of the record shall not refuse to provide a copy of the record in a readily available medium because he has already prepared or would prefer to provide the copy in a different medium.*

- g. *Public Records Requests must be responded to no later than the end of the fifth business day after the date on which the request is received by the Department.*
 - h. *Requests for reproduction of public records should be in writing and may be faxed, e-mailed, hand-delivered, mailed or submitted in person. The Public Records Request Form, 511-1, can be found on the Department's website. This form should be utilized to obtain requestor's name, address, contact information and specific documents requested. However, if the requestor is unwilling to provide the request in writing, staff may complete a Public Records Request Form on behalf of the requestor.*
 - i. *Requests for data or research should be in writing and may be faxed, e-mailed, hand-delivered, mailed or submitted in person. The Data Services & Research Request, 511-2, can be found on the Department's website. This form should be utilized to obtain requestor's name, address, contact information and specific data or research requested. However, if the requestor is unwilling to provide the request in writing, staff may complete a Public Records Request Form on behalf of the requestor.*
 - j. *If there is an issue concerning inspection or reproduction of a requested document, the Attorney General's Office should be consulted. The Deputy Attorney General assigned to the Department will assist with the issues of whether:*
 - a. *The item requested is actually a public record, available for review and reproduction; or*
 - b. *The item requested is a public record which some special legal considerations dictate should not be made available for inspection and reproduction.*
 - c. *Items falling under b. above involves conducting a legal balancing test. If a balancing test is to be performed, the requestor should be informed and then notified as soon as a decision has been made. Balancing tests should be performed without delay.*
 - k. *Copyrighted materials may be duplicated - without risk of infringement - when reproduction is for the specific purpose of: "criticism, comment, news reporting, teaching, scholarship, or research" (17 U.S.C.A. Sec. 107). When the custodian is aware that some other use is intended, consultation with the Deputy Attorney General assigned to the Department may be necessary to insure there is no infringement by reproduction of copyrighted material.*
 - l. *Confidential records of federal, state, and local governments shared with the Department **MUST NOT** be disclosed without prior written authorization from that government agency.*
 - m. *The Public Records Request form will be kept on file for one year from the date of the request and is itself, a public record.*
 - n. *Form 511-5, the Fee Schedule for Requests for Publics Records must be posted in public view in each office of the Department.*
7. *Procedures*
- a. *All requests for public records should be initially logged by the Office of Administrative & Fiscal Services on Form 511-3, Records Request Log.*

Effective July 1, 2009

- i. *The Office of Administrative & Fiscal Services shall respond within five business days to the request with Form letter 511-4, Initial Receipt Response.*
 - ii. *The Office of Administrative & Fiscal Services will forward the request to the custodian in the Office where the records are maintained.*
 - b. *Upon receipt of records request, the custodian of record has five business days to do one of the following, as applicable:*
 - i. *Allow the person to inspect the record or provide copies as requested;*
 - ii. *If the Office does not have legal custody of the record, or if the record has been destroyed, provide written notice of that fact and the name and address of the governmental entity that has legal custody of the record, if known.*
 - iii. *If the Office is unable to provide the record by the end of the fifth business day, provide written notice of that fact; and a date and time after which the record will be available for the person to inspect or copy.*
 - iv. *If the request must be denied because the record is confidential, provide written notice of that fact; and a citation to the specific statute or other legal authority that make the record confidential.*
 - c. *The requestor is to be advised, in advance, of the volume or list of records encompassing the request and the potential cost to provide the records if applicable. Copies of records shall be furnished upon payment of associated fees.*
 - i. *The requestor is to be advised that reproduced materials will be held for 14 days and subsequently destroyed if not claimed.*
 - ii. *If the cost of reproduction exceeds \$25.00, requestor is to be advised that advanced payment in full will be required to process the requests.*
 - d. *If a public records request involves records from multiple Offices, the Office of Administrative & Fiscal Services shall inform the requestor in the Initial Receipt Response, Form 511-4, that their request must be directed to multiple Offices.*
 - i. *The Office of Fiscal & Administrative Services shall contact the Offices to determine if the requested public records exist.*
 - ii. *The Offices shall provide the Office of Fiscal & Administrative Services with the time necessary to produce the requested record, the approximate number of pages, and the cost.*
 - iii. *The Office of Administrative & Fiscal Services shall notify the requestor of the time required to obtain the record, compilation cost (if any) and the cost for reproduction, and follow up with the requestor in a timely manner.*
 - iv. *If costs will exceed \$25.00, the Office of Administrative & Fiscal Services shall inform the requestor that payment in full will be required to process the request. Immediately following receipt of payment, the Office of Administrative & Fiscal Services shall notify the Offices to proceed.*
 - v. *Upon direction from the Office of Administrative & Fiscal Services to process the request, immediately compile the requested record and deliver to the Office of Administrative & Fiscal Services.*
 - vi. *Records will be provided within five business days unless additional time is required and the requestor has been informed accordingly.*
 - vii. *Advise the requestor that reproduced materials will be held for 14 days and subsequently destroyed if not claimed. If not retrieved (and the material is*

under \$25.00), a charge for the second reproduction in addition to the original charge for the first reproduction will be made. Pre-payment will be forfeited for larger orders if the material is never retrieved.

viii. The multi-departmental records will be delivered to the Clerk, who shall be responsible for delivery to the requestor and for collection of costs on behalf of the departments.

e. Extraordinary Requests

- i. When a custodian reviews a public record request, it may be determined that the request will require significant use of personnel or resources to produce and be designated as an Extraordinary Public Record Request.*
- ii. Such a request may apply to individual or multiple Offices.*
- iii. Fees may be imposed in accordance with NRS 239.055.*
- iv. The requestor is to be advised if the cost of the request exceeds \$25.00 and that payment in full of the minimum estimated amount will be required to process the request.*
- v. The amount deposited by the requestor shall include the estimated manpower costs to retrieve or reproduce the record(s) and the estimated material charges to retrieve or reproduce the record(s).*
- vi. Data requests for electronic databases, electronic records or services that are value-added products and beyond the normal scope of the Department's workload will be provided as the appropriate resources are available to fulfill the request.*
- vii. The criteria above are guidelines which may be expanded depending upon the circumstances of the request.*

Approved: _____

Keith W. Rheault

Keith W. Rheault, Ph.D
Superintendent of Public Instruction

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Superintendent of Public Instruction

STATE OF NEVADA

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Instructional, Research and Evaluative
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Carson City, Nevada 89706-2543

DEPARTMENT OF EDUCATION

700 E. Fifth Street

Carson City, Nevada 89701-5096

(775) 687 - 9200 · Fax: (775) 687 - 9101

Public Records Request Form

Requestor's Name: _____ Date of request: _____

Address: _____

City, State Zip Code: _____

Telephone #: _____

E-Mail Address: _____

I hereby request the following Department of Education public records be:

A.) Made available for review and inspection _____

B.) Copied _____

C.) Copied and certified _____

Record Requested:

I understand there is a charge for copies of public records. Further, I understand that if the estimated cost of the copies I have requested is \$25.00 or more, I will be required to pay in full prior to reproduction. Materials will be held for 14 days. If not retrieved, I will be charged in full for a second reproduction in addition to any unpaid original charges. Advance payment will be forfeited if material is not retrieved.

Signature _____
(Submission via e-mail constitutes acceptance of the terms above)

This form is a public record and will be retained for a period of one year from creation.

This form should be mailed, delivered, faxed or e-mailed to:

State of Nevada Department of Education
Office of Administrative & Fiscal Services
700 E. Fifth Street, Suite 104
Carson City, NV 89701
Telephone: (775) 687-9102
Facsimile: (775) 687-9101
e-mail: recordrequest@doe.nv.gov

NEVADA DEPARTMENT OF EDUCATION
Data Services & Research (DSR) REQUEST FORM

4/1/2009

Instructions: Please complete all items and return the form to the Nevada Department of Education Office of Administrative & Fiscal Services.

Contact Information

Name:	
Title:	
Org/Dept.:	
Address:	
Phone number:	
E-mail address:	

Key Dates

Date of Request:	
Date Preferred for Requested Deliverable(s):	

Request Type

Type of request (see below):

- Examples of types of requests
- 1) [Data Table Only \(link to examples\)](#)
 - 2) [Data Services \(link to examples\)](#)
 - 3) [Research Study Design and/or Implementation \(link to examples\)](#)

Key Questions

1) Are you under contract with the NDE already? If so, who is your NDE contact?	
2) Does this data request contribute to a study that requires an Institutional Review Board (IRB) or similar institutional approval? If so, please attach evidence of approval.	
3) Does your data exist from a publicly-available source, such as the Nevada Department of Education (http://nde.doe.nv.gov/) or the Nevada Report Card websites (http://www.nevadareportcard.com/)?	
4) Have you requested the same data in previous years from NDE? If so, please attach last year's request results or product.	
5) If you asking for data specific to individual students, what is your plan for ensuring that confidential student information will be secure and FERPA-compliant?	
6) Do you prefer data tables in Excel, SPSS, CSV, or flat file format?	
7) If you are requesting support with a research study/evaluation, state your study question(s) here:	

DSR Request Requirements:

Describe the information that you are requesting. Please describe in detail the data that you are requesting APAC to provide and the purpose for which the data will be used. Please be specific. Use additional pages as necessary to provide any additional information. Please attach any other documents (forms, instructions, or definitions of data) that you feel are necessary.

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The Nevada Department of Education operates within the guidelines of the Nevada Public Records Act (NRS 239.001) and the Family Educational Rights and Privacy Act of 1974.

Signature	Date
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For Departmental Use Only
Name of person taking request:
Staff assigned:
Expected completion date:
Date completed:

NEVADA DEPARTMENT OF EDUCATION

Fee Schedule for Requests for Public Records

1. No fees will be assessed until total costs reach at least \$10. The first hour of staff time is waived.
2. If estimated staff time exceeds four (4) hours, outside vendors/contractors may be utilized. The requestor is responsible for those costs which are due and payable before research will commence or records produced. Estimates of costs will be provided in advance if it is projected to exceed \$25.
3. Staff Time (for processing, research, copying, legal review, and technical review)
 - a. \$20 per hour per staff member (Grades 10-19).
 - b. \$30 per hour per staff member (Grades 20-29).
 - c. \$40 per hour per staff member (Grades 30-39).
 - d. \$50 per hour per staff member (Grades 40+).
4. Publications. Fees will be assessed as required.
5. Copying fees:
 - a. Black & White – 8 1/2” x 11” : \$0.03 per page.
 - b. Black & White – 8 1/2” x 14” : \$0.06 per page.
 - c. Color - up to 8 1/2” x 14” : \$0.10 per page.
 - d. Compact Disk/DVD: \$5 per disk.
 - e. Certified True Copies: \$5 per page.
6. Postage. All shipping will be USPS Parcel Post unless otherwise requested. Costs will be reimbursed by the requester.
7. Payment. Only checks or money orders payable to “Nevada Department of Education” are accepted. Payment of fees in full is required before records will be made available.
8. For further information regarding fees, contact the NDE Records Officer at 775-687-9102, Nevada Department of Education, 700 E. Fifth Street, Suite 104, Carson City, NV 89701.