

Subject: PUBLIC RECORDS REQUESTS

Date: May 17, 2017

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Replaces Policy Dated: August 22, 2012

PURPOSE: It is the policy of Pinal County to comply with the Arizona Public Records Law (A.R.S. § 39.101 et seq.). This policy establishes the process to be followed in responding to requests for public records.

POLICY:

1. Neither this policy nor A.R.S. §39.101 et seq. requires the County to create records, obtain new data, perform research or create new report forms.
2. This policy applies to all County employees, elected officials, and their staff.
3. A public record is defined pursuant to A.R.S. § 39-121.01(B) and A.R.S. § 41-141.18, to include books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media pursuant to A.R.S. § 41-151.16, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein.
4. All public records are presumed to be open to public inspection, and designated County personnel responsible for responding to public records requests shall comply with the provisions of Arizona's Public Records Act, A.R.S. § 39-101 et seq.
5. County personnel who deem a public records request inappropriate or who have questions about responding to a specific public records request shall refer the matter immediately to the County Attorney's office.

PROCESS:

1. All requests for public records shall be immediately forwarded to the designated authority within the County or the County Attorney's office for response.
2. Public records in County offices are available for public inspection during office hours. Any person may request to reasonably examine or be furnished copies of any public record during regular office hours, with the following exceptions:
 - A. Release of information is not required where prohibited by Federal or Arizona law or court orders.

- B. Release of information is not required where individual privacy rights apply, e.g., home address, telephone number, date of birth, background information, and health information protected by HIPAA.
 - C. Release of information may not be required where the information is otherwise confidential.
 - D. Release of information may not be required where release would not be in the best interest of the County, e.g., materials related to an ongoing investigation where disclosure of the materials would harm the investigation.
3. Public record requests for emails, electronic files, legal claims, or litigated matters will be processed as follows:
- A. In coordination with the designated records authority within the County or the County Attorney's office, County staff will pull relevant email or electronic records based on the criteria outlined by the requestor (dates, name, topic) from the system.
 - B. Any employee or Department Head who believes they have electronic files or emails that are personal and/or require redaction must identify and refer them to the County Attorney's office or the designated public records authority within the County.
 - C. Any employee or Department Head who is the subject of the request should notify the County Attorney's office or the designated records authority if they have archived electronic files or emails and where they are located.
 - D. Any employee or Department Head will be responsible for producing any electronic files or emails that may exist on personal electronic devices that have been used to conduct County business or are considered County property.
4. Any requests for paper files, ledgers, or written documents will immediately be forwarded to the designated records authority or the County Attorney's office, along with the supporting written documents requested, for their response.
5. Any requests received from a law firm or an attorney will immediately be forwarded to the County Attorney's Office for response.
6. In accordance with A.R.S. § 39-128, all records that are reasonably necessary or appropriate to maintain an accurate knowledge of employee performance to include performance evaluations, disciplinary actions, and employee responses to the same are considered public records. However, the County shall not release the date of birth, home address, home telephone number, social security number, or other personal information of any employee without the employee's specific written consent. Personal information included on the application or other personnel documents shall be redacted prior to release.
7. Pictures of "eligible employees" shall only be released with the specific written consent of the employee except in instances described in A.R.S. § 39-123 where such pictures meet the criteria of a public record. "Eligible employees" are identified in A.R.S. § 39-123 as a former public official, peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, law enforcement support staff member, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment, firefighter who is assigned to the Arizona counterterrorism center in the Department of Public Safety or victim of domestic violence or stalking who is protected under an order of protection or injunction against harassment.
8. All permanent public records shall be stored and retained in accordance with the requirements set forth in A.R.S. § 39-101.

9. Commercial Purpose: The use of a public record for the purpose of:
- A. Sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale, or
 - B. Obtaining of names and addresses from such public records, for the purpose of solicitation, or
 - C. Monetary gain from the direct or indirect use of the public record.

Commercial purpose does not include use of public records as evidence or research in a judicial or quasi-judicial action in Arizona, or the publication of all or a portion of a public record in a newspaper for its news value.

10. COST RECOVERY

- A. Noncommercial public records requests are made in writing either through the use of a Verified Statement of Non-Commercial purpose or otherwise. County officials responding to noncommercial public records requests may allow oral requests where appropriate. Unless otherwise provided by statute, the County may recover the cost of reproduction which includes:
 - i. Cost of materials (paper, diskettes, CDS, etc.)
 - ii. Cost of the machinery to do the reproduction, and/or
 - iii. Cost of labor to make copies
- B. Commercial public records requests are made in writing through the use of a Verified Statement of Commercial Purpose. The County shall recover the following costs:
 - i. A portion of the cost for obtaining the original or copies of the document,
 - ii. A reasonable fee for the cost of time, equipment and personnel necessary for the reproduction, and
 - iii. The value of the reproduction on the commercial market as determined by the department responding to the request.
- C. No County employee can demand or receive a fee or compensation for issuing certified copies of public records or for making a search for them, when they are to be used in connection with a claim for pension, allotment, allowance, compensation, insurance or other benefits which are to be presented to the United States or a bureau or department thereof.
- D. The standard reproduction charge for County departments shall be \$0.25 per page. Departments may also establish their own rates for copies of standard Public Records, such as police reports, and for complex reproduction requests, which may require the manipulation of data, a change in media type, or other time consuming actions.