Iowa’s Open Records Law
Chapter 22, Code 2015

Updated by:
Gary Shontz
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Iowa’s Open Records Law

- Chapter 22 of the Iowa Code requires state government entities like the University of Northern Iowa to provide the public with access to its records.
Iowa’s Open Records Law

- Definition of a “Public Record”
  - “All records, documents, tapes, or other information stored or preserved in any medium” that belong to a governmental body, as well as “investment policies, instructions, trading orders, or contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.” Section 22.1(3) Code 2015.

- Includes written material held by public officials regardless of source.

- Includes electronic records such as e-mail.
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- **Every person shall have the right to examine and copy a public record.**
- **The right to examine includes the right to examine a public record without charge while the public record is in the possession of the custodian.**
- **The right to copy includes the right to photograph or make photographic copies of the record while the records are in the possession of the lawful custodian.**

Section 22.2(1) Code 2015
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- **Foundation Records**
  - Records of private nonprofit corporations that operate as a foundation soliciting and managing private gifts for the exclusive benefit of a public university are “public records.”
  - A government body cannot prevent disclosure of public records by contracting with a private entity.

*Gannon v Board of Regents et al*, 692 N.W. 2d 31 (Iowa 2005).
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Procedure

- All records examinations and copying must be done under the supervision of the lawful custodian of records. Section 22.3 Code 2015

- The lawful custodian should not relinquish control of the records to the requestor.

- The lawful custodian should provide a suitable place for examination and copying unless it is impractical to do so.

- The lawful custodian shall not require the requestor to be physically present to request copies of public records.

- Requests of copies can be received in writing, by telephone, or by electronic means.
Charges: The lawful custodian may charge a “reasonable fee” for expenses associated with supervising, compiling, and copying records. The fee shall not exceed the “actual costs” as defined in Section 22.3(2) Code 2015.

The fee schedule must be uniformly applied to all requesters.

Estimated expenses shall be communicated to requester upon receipt of the request for an estimate.
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- UNI follows the Board of Regents fee schedule.
  - $30/hour for actual time spent locating, retrieving, reviewing for exempt content, redacting, and copying documents and/or supervising the examination of public records. No charge if time is less than one hour.
  - 25 cents per page for copies if more than 20 pages must be copied. No charge for less than 20 pages.
  - $75/hour minimum charge for computer programming time when records must be extracted from computer databases.
  - $20 for a standard or established list. Labor and computer programming charges will apply if a standard or established list does not exist.
  - Mailing costs are billed at actual cost.
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- Tip – to avoid surprises to the requestor and possible non-payment of charges, it is suggested that a cost estimate be provided prior to fulfilling a request for documents.

- Tip – It is suggested that prepayment be required if charges will exceed $25 or if the requestor has not honored previous invoices for copies of public documents.
How much time does the University have to respond to a request for public records?

- Simple requests should be honored as soon as possible.
- Complex requests should be honored within ten business days if possible. If more time is needed, the custodian should advise the requestor regarding when copies will be received.
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What if the University has the data in a computerized database, but no actual document exists?

- The University has the obligation to extract and compile the data.
- The University may charge $75 per hour for computer programming if new or original programming is required.
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- **Confidential Records**: Sixty-seven (67) categories of records are considered confidential and they shall be kept confidential. *Section 22.7 Code 2015*
  - Personal information regarding current, prospective, or former students.
    - Violations of law or institutional regulations regarding alcohol or controlled substances may be reported to a parent if the student is under twenty-one years of age.
    - Special Note: FERPA allows additional communication with parents. Examples: health and safety notifications in emergency situations.
  - Medical and professional counseling records.
  - Trade secrets recognized by law.
  - Work product of an attorney related to litigation or a claim made by or against the University.
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Confidential Records (cont’d)

- Peace officer’s investigative reports if part of an ongoing investigation.
- Property appraisals prior to announcing a project.
- Personal information in confidential personnel records.
- Names of library patrons checking out specific materials.
- Names of owners of Regents revenue bonds.
Confidential Records (cont’d)

- Certain UNI Foundation records containing information about current/prospective donors.
- Information about security measures or emergency preparedness.
- Tentative, preliminary, draft, speculative, or research material prior to completions for the purpose for which it is intended.
- Electronic mail addresses/phone numbers collected for purpose of disseminating emergency or routine information.
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- Civil Enforcement: If a court finds that a state entity failed to comply with a lawful request, Section 22.10 of Code 2015 allows the court to:
  - issue an injunction mandating compliance,
  - impose fines ranging from $100 to $500 per occurrence against each person who participated in the violation, with fines ranging from $1,000 to $2,500 if a person knowingly participated in a violation,
  - require the custodian to pay successful plaintiff’s costs and reasonable attorneys’ fees, if the plaintiff successfully established a violation, and
  - remove from office any person who engaged in a prior violation of Chapter 22 for which damages were assessed.
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• Ignorance of the legal requirements of Chapter 22, Code 2015 is not a defense to an enforcement proceeding. Section 22.10(4) Code 2015.

• Tip: Persons in doubt about the legality of allowing the examination or copying of a University record should consult with the University Counsel.
Examples of UNI Requests

- Purchasing bid tabulations.
- Pouring rights contracts.
- Copy of student information system proposal response submitted by Oracle and the resultant contract. Information from references used in the decision-making process. Listing of the vendor's representations regarding functionality and features.
- Requests from the press regarding news stories.
Examples of UNI Requests - Cont’d

- Salaries and contracts of athletic director and head and assistant coaches.
- Athletic game contracts.
- EADA and NCAA Financial Reports.
- Unclaimed outstanding checks for past 5 years including dates, names, last addresses, and amount for checks over 6-months old.
- Athletics budgets.
- List of subcontractors on major capital projects.