



Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 74
TRANSPARENT AND ETHICAL GOVERNMENT
CHAPTER 1
PUBLIC RECORDS ACT

74-102. PUBLIC RECORDS – RIGHT TO EXAMINE. (1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the public agency or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) A public agency may require that a request for public records be submitted to it in a writing that specifically describes the subject matter and records sought, including a specific date range for when the records sought were created. The requesting party shall be as specific as possible when requesting records. A request shall describe records sought in sufficient detail to enable the public body to locate such records with reasonable effort. A request shall also provide the requester's name, mailing address, e-mail address and telephone number. A request for public records and delivery of the public records may be made by electronic mail.

(5) The custodian shall make no inquiry of any person who requests a public record, except:

(a) To verify the identity of the requester in accordance with section 74-113, Idaho Code; or

(b) To ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section 74-120, Idaho Code, or as otherwise provided by law; or

(c) As required for purposes of protecting personal information from disclosure under chapter 2, title 49, Idaho Code, and federal law.

(6) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(7) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(8) Examination of public records under the authority of this section must be conducted during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent

the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(9) The public agency may provide the requester information to help the requester narrow the scope of the request or to help the requester make the request more specific when the response to the request is likely to be voluminous or require payment as provided in subsection (10) of this section.

(10)(a) Except for fees that are authorized or prescribed under other provisions of Idaho law, no fee shall be charged for the first two (2) hours of labor in responding to a request for public records, or for copying the first one hundred (100) pages of paper records that are requested.

(b) A public agency or public official may establish fees to recover the actual labor and copying costs associated with locating and copying documents if:

(i) The request is for more than one hundred (100) pages of paper records; or

(ii) The request includes records from which nonpublic information must be deleted; or

(iii) The actual labor associated with responding to requests for public records in compliance with the provisions of this chapter exceeds two (2) person hours.

(c) A public agency or public official may establish a copying fee schedule. The fee may not exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law.

(d) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, a public agency or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

(i) The agency's direct cost of copying the information in that form;

(ii) The standard cost, if any, for selling the same information in the form of a publication;

(iii) The agency's cost of conversion, or the cost of conversion charged by a third party, if the existing electronic record is converted to another electronic form.

(e) Fees shall not exceed reasonable labor costs necessarily incurred in responding to a public records request. Fees, if charged, shall reflect the personnel and quantity of time that are reasonably necessary to process a request. Fees for labor costs shall be charged at the per hour pay rate of the lowest paid administrative staff employee or public official of the public agency who is necessary and qualified to process the request. If a request requires redactions to be made by an attorney who is employed by the public agency, the rate charged shall be no more than the per hour rate of the lowest paid attorney within the public agency who is necessary and qualified to process the public records request. If a request is submitted to a public agency that does not have an attorney on staff, and requires redactions by an attorney, the rate shall be no more than the usual

and customary rate of the attorney who is retained by the public agency for that purpose.

(f) The public agency shall not charge any cost or fee for copies or labor when the requester demonstrates that the requester's examination and/or copying of public records:

(i) Is likely to contribute significantly to the public's understanding of the operations or activities of the government;

(ii) Is not primarily in the individual interest of the requester including, but not limited to, the requester's interest in litigation in which the requester is or may become a party; and

(iii) Will not occur if fees are charged because the requester has insufficient financial resources to pay such fees.

(g) Statements of fees by a public agency shall be itemized to show the per page costs for copies, and hourly rates of employees and attorneys involved in responding to the request, and the actual time spent on the public records request. No lump sum costs shall be assigned to any public records request.

(11) A requester may not file multiple requests for public records solely to avoid payment of fees. When a public agency reasonably believes that one (1) or more requesters is segregating a request into a series of requests to avoid payment of fees authorized pursuant to this section, the public agency may aggregate such requests and charge the appropriate fees. The public agency may consider the time period in which the requests have been made in its determination to aggregate the related requests. A public agency shall not aggregate multiple requests on unrelated subjects from one (1) requester.

(12) The custodian may require advance payment of fees authorized by this section. Any money received by the public agency shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund. Any portion of an advance payment in excess of the actual costs of labor and copying incurred by the agency in responding to the request shall be returned to the requester.

(13) A public agency shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(14) Nothing contained herein shall prevent a public agency from disclosing statistical information that is descriptive of an identifiable person or persons, unless prohibited by law.

(15) Nothing contained herein shall prevent a public agency from providing a copy of a public record in electronic form if the record is available in electronic form and if the person specifically requests an electronic copy.

(16) A public agency or elected official shall designate a custodian or custodians for all public records, which includes any public official having custody of, control of, or authorized access to public records and also includes all delegates of such officials, employees or representatives.

History:

[74-102, added 2015, ch. 140, sec. 5, p. 345; am. 2018, ch. 143, sec. 2, p. 291; am. 2020, ch. 338, sec. 2, p. 983; am. 2022, ch. 306, sec. 2, p. 973.]

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