

June 29, 2018

The following is a short overview of a School's responsibilities in responding to Colorado Open Records Act (CORA) requests per C.R.S. 24-72-201, *et seq.* Because every Colorado charter school is subject to CORA, each CSI School should adopt a CORA policy (sample included below) in order to assist the School in responding to CORA requests.

CORA is extremely nuanced and this document is only a brief overview of its requirements. **This document is not intended to provide legal advice in any way.** It is always recommended that a CSI School contact its attorney in responding to CORA requests.

### Purpose

The Colorado Open Records Act (CORA) is a tool for the public to request public documents. It is the purpose of the act for institutions like charter schools to make available their public records open for inspection by any person within a reasonable time, with exceptions.

### Exceptions

Many records that charter schools maintain will not be available for inspection. CORA lists the exclusions (see C.R.S. 24-72-202 – 204), but some examples include private, personally identifying information about students and their families, proprietary information, specialized details of security arrangements or investigations, and other records required by federal or state law to remain confidential and/or not subject to disclosure.

Personnel records are typically not subject to disclosure. However, certain aspects like applications of past or current employees, employment agreements, compensation including expense allowances and benefits, and any amount paid or benefit provided incident to termination of employment would need to be disclosed if they were properly requested.

Note that even if some documents can be disclosed upon request, if the document contains information that is itself excludable, the school must manipulate or redact the information to ensure that the exempted information cannot be seen.

### Custodian Designation

School administration must make the name, contact information, and address of the custodian of records, the person who would be responding to requests, readily available to the public. This can be posted on a school's website and should be in your CORA policy. The custodian will generally be the individual responding to CORA requests, in consultation with your legal counsel. The custodian should be trained in CORA and how to respond to CORA requests.

### Responding to CORA Requests

#### *i. Scope of the Request*

The onus is on the requester to properly make a CORA request. CORA does not impose an unreasonable burden to investigate outside the agency for requested documents or undertake a special search to locate requested documents. *Pruitt v. Rockwell*, 886 P.2d 315 (Colo. App. 1994). Sometimes the records that the requester wants do not exist and a school is under no obligation to create records (note: altering an existing public record to remove information not subject to disclosure does not constitute the creation of a new record).

CORA requests can be time consuming. It may be advantageous to be proactive in communicating with individuals seeking information in order to avoid unnecessary or overly burdensome CORA requests. It may also be beneficial to communicate with the person requesting information, giving an advance look into what the requester is seeking.

***ii. Timeline***

CORA states that entities must respond within a reasonable time after a request is made. This “reasonable time” is 3 working days or less, starting on the first business day after the request is received.

This period can be extended by the school for extenuating circumstances. The statute explains these circumstances. See C.R.S. 24-72-203(3)(b). The period of extension cannot exceed 7 working days. The requester must be notified by the custodian in writing of this extension within the original 3 day period.

If the records requested are determined to not be subject to disclosure, then the school would respond within the original 3 day time period or the time period for extenuating circumstances, along with the reasons for why the information is not subject to disclosure. The school may also request that the requester clarify its original request or specify the information sought. This request for clarification must happen within the 3 day response period. The school can specify that the request is not “received” until the requester responds to the clarification inquiry. The 3 day period would then start the next business day after the clarification from the requester is received.

***iii. Inspection of Records***

A requester may inspect the records in person in advance of receiving copies. The custodian can schedule a time for inspection within three working days of receiving the request and should have a representative present to monitor the investigation of records.

***iv. Processing Fees***

A school may charge a fee for copying and printing of documents. This fee cannot be more than \$0.25 per standard page. The school may also charge a reasonable fee for the time spent researching, retrieving, and manipulating documents. The cost cannot exceed \$30 an hour, however the first hour of retrieval or research for documents must be free.

***v. Preparation of Records***

The school may manipulate current records or create a new record in response to a request. The cost of this manipulation can include an hourly fee that applies in the same manner as the research or retrieval of records. Manipulation of data can include reviewing documents for protected information and removing or redacting that information.

Generally, if a public record is stored in a digital format, it should be provided in that format to the requester, including any searchable or sortable functions unless doing so would violate a copyright or licensing agreement, result in the release of a third party’s proprietary information, or if it is not feasible to permanently remove any information that is excluded from the request without need for additional software or programming.

**Lastly, the school should always consult with its legal counsel prior to submitting its response to the CORA request.**

**Resources**

[CORA Act](#)

[Sample Policy](#)

**Contact Information**

Contact the Legal and Policy Department at [legalandpolicy\\_csi@csi.state.co.us](mailto:legalandpolicy_csi@csi.state.co.us) with questions.