

SAN JUAN BASIN PUBLIC HEALTH
SUBJECT: PUBLIC "OPEN" RECORDS POLICY
ISSUED ON: May 26, 2022

A. Purpose

To establish a protocol under which public documents will be made available upon request.

B. Policy Statement

In accordance with our statutory responsibility, San Juan Basin Public Health (SJBPH) is committed to ensuring public access to SJBPH's public records (for which SJBPH is the custodian of records) within a reasonable time and at a reasonable cost.

C. Definitions

- I. The "custodian" means and includes the official custodian or any authorized person having personal custody and control of the public records in question.
- II. "Public records" are those defined in C.R.S. § 24-72-202. Generally speaking, the following kinds of records are public:
 - a. Records of any official actions taken by elected officials during public meetings including minutes, tapes, exhibits, resolutions, agreements, contracts, reports, etc.
 - b. All documents related to the expenditure of public funds.
 - c. Applications for employment and employment agreements.
 - d. Minutes of meetings of any SJBPH advisory boards, committees and commissions.
 - e. Incoming and outgoing correspondence of staff in which SJBPH business is discussed.
 - f. Correspondence of elected officials, except to the extent that such correspondence is a work product; without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds; a communication from a constituent to an elected official that clearly implies by its nature or content that the constituent expects that it is confidential or a communication from the elected official in response to such a communication from a constituent; subject to nondisclosure as require by C.R.S.§ 24-72-204(1).
 - g. Certain electronic mail. (Note: some electronic mail may be considered confidential work product or attorney-client privileged information.)
- III. "Writings" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings includes digitally stored data, including without limitation email messages, but does not include computer software.
- IV. "Work product" means and includes all intra- or inter-agency advisory or

deliberative materials assembled for the benefit of elected officials, which materials express an opinion or are deliberative in nature and are communicated for the purpose of assisting such elected officials in reaching a decision within the scope of their authority. Such materials include: notes and memoranda that related to or serve as background information for such decisions; preliminary drafts and discussion copies of documents that express a decision by an elected official. Correspondence, reports and any other communication between staff, other agencies, consultants and/or others preparatory to any report or recommendation to an elected official is considered to be a work product. Work product does not include: Any final version of a document that expresses a final decision by an elected official; any final version of a fiscal or performance aptitude report or similar document the purpose of which is to investigate, track or account for the operation or management of a public entity or the expenditure of public money, together with the final version of any supporting material attached to such final report or document; any final accounting or final financial record or report; any materials that would otherwise constitute work product if such materials are produced and distributed in a public meeting or cited and identified in the text of the final version of a document that expresses a decision by an elected official.

V. The definitions found in C.R.S. § 24-72-202 take precedent over this Policy, if definitions in this Policy differ from statute, please refer to C.R.S. § 24-72-202.

D. Applicability

This policy applies to all departments and offices of SJBPH.

E. Compliance

Each Division Director is responsible to ensure compliance with this Policy.

F. General Provisions

I. Right to Inspect Public Records

All books, papers, maps, photographs, cards, tapes, recordings, correspondence, digitally stored data and other documentary materials, regardless of physical form or characteristics, held by any local government for use in the exercise of its functions or involving the receipt or expenditure of public funds are public record pursuant to C.R.S. § 24-72-202, with the exceptions noted in Article 72, Part 2 of the Colorado Revised Statutes, and subject to public inspection under C.R.S. § 24-72-203. In addition to the right of inspection, any person also has the right to obtain copies of these records.

It is the responsibility of each Division to know which records produced by or received by that Division are considered public record. C.R.S. § 24-72-202 specifies what communications and writings are public record.

The following records are not public records:

1. Certain criminal justice records;
2. Work products prepared for elected officials;
3. Personnel files (except applications, employment agreements and performance ratings);
4. Medical, psychological, sociological and certain scholastic achievement data
5. Real estate appraisals; and,
6. Legal reports and advice.

This list is not exhaustive; therefore, if there is any question about whether or not certain records are public information, the Chief Strategy Officer, Executive Director, or their designee shall consult with SJBPH's Attorney.

II. Electronic Mail

Each individual employee is the custodian of his or her incoming and outgoing electronic mail (e-mail). In order to facilitate research and retrieval of email records that may be requested by the public, employees should take care to use a descriptive subject line that accurately and thoroughly reflects the topic of the e-mail correspondence.

III. Requests for Information and Inspection

a. Procedure for Requesting Public Records

With the exception of documents that are provided in the normal course of business, any request for public information that requires research and/or retrieval shall be made in writing on the official Public "Open" Records Request form. The form is available on the SJBPH website (sjbpublichealth.org) or may be obtained by calling the Front Desk at 970-247-5702.

All records requests may be delivered or mailed to the San Juan Basin Public Health offices located in Durango (281 Sawyer Drive Ste 300, Durango, CO 81303) or Pagosa Springs (502 S. 8th St, Pagosa Springs, CO 81147) or may be submitted by email to recordsrequest@sjbpublichealth.org. Records requests may also be delivered by fax to 970-247-9126. The staff person who receives the records request at the Front Desk shall immediately transmit the request to the Chief Strategy Officer. The Chief Strategy Officer or their designee shall maintain the log of all records requests received.

Any staff member who receives a public "open" records request directly shall immediately notify his or her supervisor. Any records request so received shall be immediately transmitted to the Chief Strategy Officer.

Whenever a request is made for records pursuant to C.R.S. § 24-72-203, the Chief Strategy Officer or their designee may consult with SJBPH's Attorney to ascertain whether the requested records are public or constitute an exception (such as a work product).

b. When Time Period for Response Begins

The time period begins when SJBPH receives the completed official Public "Open" Records Request form. If the form is sent by:

- i. Email, it is deemed received when it is opened by the recipient.
- ii. U.S. mail, it is deemed received when the letter is opened and date stamped.
- iii. Fax, it is deemed received when it is received and date stamped during regular business hours.
- iv. Requests received outside of normal business hours, on holidays, and over weekends will be deemed received no earlier than 8 a.m. on the next succeeding business day.

IV. Time for Inspection of Records

SJBPH will strive to comply with all public records requests within three (3) working days of receipt. If the requested records are in active use or are in storage, and are therefore, not immediately available, this information shall be communicated to the person making the public records request either by phone, or in writing, if requested, before the expiration of the three-day period.

The period of time for providing requested documents may be extended for an additional (7) seven working days if SJBPH's Attorney determines that one of the following conditions ("extenuating circumstances") exists, and SJBPH states such condition in writing to the requestor, within the first three (3) working days of receipt of the request (CRS24-72-203(3)(b)):

- a. A broadly-stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the appropriate custodian of records reasonably to prepare or gather the records within the three-day period (CRS 24-72-203(3)(b)(I)).
- b. A broadly-stated request is made that encompasses all or substantially all of a large category or records, and the agency is unable to prepare or gather the records within the three-day period because:
 - i. The custodian needs to devote all or substantially all of their resources to meet an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or
 - ii. A request involves such a large volume of records, or such obscure records, that the custodian cannot reasonably prepare or gather the records within the three-day period without substantially interfering with the custodian's obligation to perform his or her other public service responsibilities. (CRS 24-72-03(b)(II)).
- c. If the request is too broad, speculative or voluminous to prepare in ten working days (three days plus the seven-day extension), SJBPH may request relief from the Court, including attorney's fees, as provided by law.

V. Fees

- a. SJBPH may charge for time spent by staff, for legal consultation, and/or

technical support in responding to large requests for inspection of records, including without limitation, requests that require the searching of voluminous files for specific information, manipulating data or redacting documents to excise confidential information. The hourly rate for such work is specified in section iii below. For large requests, the estimated cost of the work shall be collected from the requestor before the work begins. If actual charges are less than the estimated cost of the work, the balance will be refunded.

b. Copies

- i. For all SJBPH offices, the fee for a *paper copy* of any public record is 25 cents per page for copies up to 11" x 17" in size. If the document is greater than 11" x 17", then the fee shall be the actual cost of reproduction.
- ii. The fee for an *electronic copy* of any public record(s) shall be as follows:

| Public Records | | |
|---------------------------------------|------------------------|---------------------------------------------------------------------------|
| Paper copy | | |
| Up to 11" x 17" in size | \$0.25/page | |
| Greater than 11" x 17" in size | | Actual cost of reproduction |
| Electronic copy | \$1 per CD/DVD | Data compilation time additional |
| Data compilation | | Includes the cost of redacting documents to excise privileged information |
| Less than one hour to fulfill request | \$0 | |
| More than one hour to fulfill request | \$30/hour ¹ | Or as otherwise established in the Colorado Revised Statutes |

SJBPH will not accept a CD, thumb drive, or other storage media from the person requesting the records (the "requestor") to avoid viruses and/or system contamination.

iii. Data Compilation and/or Data Manipulation

- 1. If the request will take more than an hour to fulfill, the fee for compiling the requested information and/or manipulating the data to create a format otherwise not used by SJBPH, shall be as follows:

Less than 1 hour- no charge

¹ Per Section 24-72-205(6)(b) C.R.S.

More than 1 hour - \$30 per hour
Or as otherwise established in the Colorado
Revised Statutes

2. The fee for data compilation includes the cost of redacting documents to excise privileged material.
3. SJBPH may refuse any request requiring data manipulation on the basis that the Colorado Open Records Act does not require manipulation.

VI. Inspection of Records

Inspection of records will take place during regular business hours (Monday through Friday from 8 a.m. to 5:00 p.m.) in SJBPH's Offices or at such other location as may be specified by the custodian of the requested records. The requestor may not bring or use photocopiers, fax machines and other copy, scanning or reproductive device when inspecting records. Upon completion of the review, the requestor must mark with tabs the pages he or she wishes to have copied. Copies will be made at a later time, depending on the volume. The requestor will be notified by the method identified on the Public "Open" Records Request form when the copies are available for inspection and/or pickup.

VII. Denial of Inspection of Records

In accordance with the Colorado Open Records Act, certain records are either prohibited from disclosure or may be withheld from public inspection. Any denial of inspection of records will be specific and the justification for such denial, as authorized under the Colorado Open Records Act, will be provided in writing to the requestor.

VIII. Retention and Archiving

The custodian of records in each Division is responsible to retain, archive and/or purge records in accordance with the retention scheduled established by the State Archivist for such records. Employees are responsible to retain, archive and/or purge, as appropriate, any incoming or outgoing e-mail, along with their other official county records, in accordance with the retention schedule from the Colorado State Archivist.

Questions concerning this policy should be directed to the Chief Strategy Officer. In the event any provision or requirement of this policy conflicts with the Colorado Open Records Act, the provisions of the Colorado Open Records Act shall prevail.



Chair, SJBPH Board of Health

Attest: 

Clerk to the Board