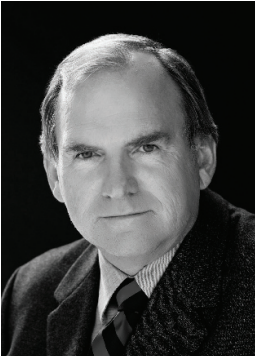


The seal of the State of New Mexico is centered in the background. It features an eagle with its wings spread, perched on a cactus. The eagle is surrounded by a circular border containing the text "THE STATE OF NEW MEXICO" and "1912". Below the eagle, the Latin motto "CRESCIT EUNDO" is visible.

INSPECTION OF PUBLIC RECORDS ACT

Compliance Checklist

New Mexico Attorney General Gary K. King



“Secrecy and a free, democratic government don’t mix.”

~Harry S. Truman

To the citizens and public officials of New Mexico:

Government that is open and accessible to all citizens is vital to a free society and the democratic process. In our State, the Inspection of Public Records Act requires public access to virtually all public documents, with a few exceptions. It seems like a simple enough mandate, but sometimes laws can be confusing to public officials and to the people they serve.

The Inspection of Public Records Act Checklist is designed to help New Mexico government operate the way it should, under full “sunshine” for the benefit of all. This checklist is offered by my office to anyone who is interested in participating in the practice of democracy by using the information herein to help ensure that we maintain what President Abraham Lincoln called, “government of the people, by the people, for the people.”

Thank you for your interest in open government.

A handwritten signature in cursive script that reads "Gary K. King". The signature is written in dark ink on a white background.

Gary K. King
New Mexico Attorney General

INSPECTION OF PUBLIC RECORDS ACT

Access to public records is one of the fundamental rights afforded people in a democracy. There are some circumstances where the right to inspect is outweighed by specific competing interests protecting the confidentiality of certain documents. Usually, these protections are codified in state or federal law.

Anyone who is denied the right to inspect public records has a right of private action in court and may also ask the Attorney General or appropriate district attorney to enforce the Inspection of Public Records Act. A private party who brings an action and prevails in court may be awarded damages, costs and attorneys fees (§ 14-2-12).

The following checklist is intended to help you, as a public official, comply with the Inspection of Public Records Act, NMSA 1978, Chapter 14, Article 2. For more detailed guidance, please refer to the Inspection of Public Records Compliance Guide available from the Office of the New Mexico Attorney General.

COMPLIANCE CHECKLIST

Designation of Custodian of Public Records (§ 14-2-7)

Each public body must designate at least one Custodian of Public Records to:

- _____ Receive and respond to requests to inspect records; and
- _____ Arrange proper and reasonable inspection opportunities; and
- _____ Provide facilities for making copies of records or furnish copies of records to the requestor.

Notice of Inspection Rights and Responsibilities (§ 14-2-7)

Each public body must post notice in a conspicuous location at its administrative office that sets forth:

- _____ The right of any person to inspect the public body's records and the public body's responsibility to make public records available for inspection; and
- _____ The procedures for requesting inspection of public records; and
- _____ The procedures for requesting copies of public records; and

_____ Reasonable fees for copying public records.

Response to a Request to Inspect Public Records (§ 14-2-8)

Oral Requests:

_____ If a request to inspect public records is made orally, the custodian should respond to the request, but the Act's procedures for handling requests do not apply.

Written Requests:

_____ If the request is written, the records custodian should determine whether the public body has possession or responsibility for the records requested.

If the body does not have custody or responsibility for the records, the custodian must:

_____ Forward the request to the proper custodian, if known; and

_____ Notify the requester of the reason the records are not in the custody and control of the custodian and of the records' location and the contact information for the proper custodian.

If the public body does have custody or responsibility for the requested records, the custodian must:

_____ Determine if the request is asking for a record that is or contains information covered by an exception to public

inspection (§ 14-2-1).

- _____ Separate records containing exempt and nonexempt information (including redacting exempt information contained in an otherwise public record), if the records or parts of the records are exempt (§ 14-2-9).
- _____ Permit inspection of nonexempt records immediately or within 3 business days, unless the request is deemed excessively broad or burdensome (see below); or
- _____ Explain to the requester, in writing, when the records will be available for inspection or when the public body will respond to the request.
- _____ Allow inspection or otherwise respond to the request within 15 calendar days from the date the custodian received the request.

If the request is deemed excessively burdensome or broad the custodian must (§ 14-2-10):

- _____ Notify the requester been notified in writing that additional time is needed to respond.
- _____ Provide such notification within 15 calendar days after the custodian received the inspection request. (Please note that if inspection is not permitted within a reasonable time, the requester may deem the request denied and pursue the remedies available under the Act.)

Copy Fees (§ 14-2-9)

If the public body charges a fee for copying public records, the fee must:

- _____ Be limited in amount to that necessary to reimburse the public body for its actual costs of copying the records (unless a law other than the Inspection of Public Records Act sets a different fee).
- _____ Excludes the cost to the public body of finding the records, determining whether the records are subject to disclosure and other costs not related to copying the records.
- _____ Be set at the amount necessary to reimburse the public body for its actual costs of copying for documents 11" x 17" or smaller or \$1.00 per page, whichever is less.
- _____ In addition, the custodian must issue a receipt for the fees paid by the person requesting the copies upon request.

Denied Requests to Inspect Public Records (§ 14-2-11)

If the inspection request is denied, the custodian must...

- _____ Provide the requester with a written explanation of the denial that:
 - _____ Describes the records sought; and
 - _____ Contains the names and titles of each person

responsible for denying the request; and

_____ Describes the reasons for the denial; and

_____ Deliver or mail the written explanation to the requester no later than 15 calendar days after receiving the request.

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