

## **COLORADO OPEN RECORDS ACT (CORA) CCCS GUIDANCE ON REQUESTS AND EXEMPTIONS**

### **OVERVIEW**

- CCCS is a public governmental entity and therefore has certain obligations to respond to requests for access to public records under the Colorado Open Records Act (CORA).
  - A public record includes most writings or documents made, maintained, or kept by CCCS, but there are several exceptions.
- In responding to CORA requests, CCCS has the ability to charge reasonable fees for staff time (after the first hour) and copying charges, if applicable. The hourly rate is established in [SP 10-20a](#).
  - Whether or not to charge a fee is at the discretion of the College/System Office.
- CORA does not require CCCS to create any record that is not already in existence; it only requires access to public records that are in the institution's possession and are not otherwise exempt.
- CORA does not require CCCS to create responsive narratives to questions posed by the requestor.

### **CORA CUSTODIANS**

- All Colleges and the System Office must designate a CORA Custodian where requests for records may be submitted.
- Contact information for the CORA Custodian (email, fax, and mailing address), a link to SP 10-20a, and any other applicable procedures for making a request must be posted on the public-facing website and kept up to date.
  - Due to short timelines applicable to responding to CORA responses, Colleges should consider identifying a back-up to monitor for CORA requests in the event that the primary CORA Custodian is on leave or otherwise unavailable for an extended period of time.
  - Colleges should ensure the CORA Custodian is on the CCCS email distribution list to receive guidance and information related to CORA requests ([CCCSCORA@cccs.edu](mailto:CCCSCORA@cccs.edu)). To be added to the email list, requests can be submitted to the office of the CCCS Chief Communications Officer & Legislative Liaison.
  - Electronic CORA Request Forms may be created and utilized; giving Custodians and back-ups access with the ability to notate and monitor response information (date, respondent, data, etc.).

### **STEPS FOR RESPONDING TO A CORA REQUEST**

- **Ensure the request has been submitted in writing to the proper CORA Custodian.**
  - If a request has gone to another individual within CCCS, that individual can either direct the requestor to the appropriate CORA Custodian or forward the request directly to the CORA Custodian.
  - Verbal requests must be reduced to writing by the requestor.

- A request is preferred, but generally not required, to include the requestor's full name and mailing or e-mail address. Identification is only required when the requestor is seeking confidential records or records accessible only to a "person in interest."
- **Determine the date the request was received as this will dictate the timeline for providing a response.**
  - *Mailed requests*: The timeline for responding begins on the date the CORA Custodian actually receives the request.
  - *Emailed requests*: The timeline for responding begins on the date the CORA Custodian confirms acceptance of the request to the requestor.
  - Records must be provided within three (3) business days from the date the request was considered received. In extenuating circumstances (see below), this time period can be extended for an additional seven (7) days.
- **Determine if the institution possesses any responsive records.**
  - If no responsive records, notify the requestor: "The College does not have any public records responsive to this request."
  - If the institution has responsive records, proceed to the next step.
- **Determine if any exceptions apply that would prohibit or preclude disclosure of the records.**
  - See CORA Response Table below; and/or
  - Contact Legal Affairs with questions.
- **Determine if "extenuating circumstances" exist and require more than three (3) business days to provide responsive records.**
  - Typically, extenuating circumstances exist if the request involves such a large and broadly stated volume of records that the CORA Custodian cannot respond within three days without substantially interfering with their normal job duties.
  - If so, when you acknowledge receipt of the request, notify the requestor that up to an additional seven (7) days will be required to respond after the initial three (3) business days. You may also invite the requestor to narrow their request to allow for a faster response time.
  - If no extenuating circumstances, responsive records must be provided within three (3) business days.
- **Evaluate the request to determine if the requestor will be charged a fee.**
  - The first hour of staff time working on a CORA request is free.
    - After that, it is a business decision whether to assess a fee for staff time.
    - CCCS/Colleges need to be consistent in their practices to charge or not.
    - Additionally, charges for actual copying costs can be assessed (e.g., paper copies, thumb drives, discs).
  - If a fee will be assessed:
    - Estimate the amount of the fee. For large email requests, as a starting place and rule of thumb, staff can review about 20 emails per hour. (Example: A CORA request that results in 500 responsive emails, would cost an estimated \$720 to review and produce using the current rate of \$30/hour. Remember that there is no charge for the first hour.)
    - When you acknowledge receipt of the request, notify the requestor of the estimated fee and ask them to confirm they accept the charges. Time periods

for responding to the request are paused until the requestor responds and accepts the charges.

- Colleges may also elect to require an advanced deposit prior to dedicating staff time to review the records.
  - If the College or System Office allows the public to pay for any other service or product with a credit card, CCCS must allow CORA requestors to pay with a card as well.
- **Acknowledge receipt of the request within three (3) business days.**
    - For simple requests, the substantive response can be provided at the same time as initial acknowledgment of the request.
    - For complex requests, the initial acknowledgement can serve as an opportunity to notify the requestor if additional time is needed, whether fees will be assessed, etc.
  - **Gather and review the responsive records.**
    - Work with appropriate departments and personnel to gather the requested records.
    - Ensure the records gathered are actually responsive to the request.
    - Remove or redact any information that is exempt from disclosure or nonresponsive.
    - Staff should track and document the time spent on the request.
  - **Respond to the request.**
    - The form of the response will vary depending on the volume and type of records. Responsive records must be emailed or transferred electronically unless the size of the record prevents electronic transmission. In those cases, they can be mailed, provided on a thumb drive/disc, or made available for inspection at the institution.
      - The requestor can be charged for actual costs of providing the records. There is no charge for copying if records are emailed or provided electronically (but charges for staff time may apply).
    - Records should be provided in their native format when possible (e.g., if institution possesses a record in a searchable, sortable format, it should be provided in that same format, unless it would violate copyright laws or is not technically feasible to provide a copy in that format).
    - If a fee will be charged, the institution may hold disclosure of the records until the fee is paid.
    - See the CORA Response Table below for suggested language.
  - **Contact Legal Affairs if:**
    - The request is connected to a legal complaint or litigation;
    - The request requires System Office IT to run searches of email or other software systems;
    - The request involves records that are not contemplated in the CORA Response Table below; or
    - If the request seems sensitive or high risk for any reason.
  - **Retain a Copy of the CORA request for two years after the response is provided.**

#### Authority and References

- Colorado Open Records Act, [C.R.S. 24-72-201, et seq.](#)

- CCCS Board Policy ([BP 10-20 Open Records Requests](#)) and System Procedure [SP 10-20a Open Records Requests](#)
- Attorney General Opinion – [Colorado Open Records Act Frequently Asked Questions](#)

### CORA RESPONSE TABLE

This table contains common CORA requests or circumstances related to CORA requests, along with recommendations and suggested language to include as you communicate with the requestor. Please contact Legal Affairs to discuss any particular situation that involves an exemption, as many of the exemptions are nuanced.

REQUEST FOR ...	IS DISCLOSURE REQUIRED?	RESPONSE LANGUAGE	OTHER GUIDANCE
<b>General Exemptions</b>			
Records that the College does not possess.	No	The College did not locate any records responsive to your request.	
Records that require more than 3 days to produce.	Yes, unless another exemption applies	Due to the nature of your request, the College will not be able to provide responsive records within three business days and will need up to an additional seven days to respond. If you would like to narrow your request, we can reevaluate the time period for responding.	
Records subject to third party copyright, patent, or intellectual property rights	No	The requested records are exempt from disclosure as they are protected by applicable federal and state intellectual property laws (24-72.204(1)(a)-(b), C.R.S.).	
Privileged records (e.g., attorney-client privileged)	No	The requested records are exempt from disclosure as attorney-client privileged communications and/or work product (24-72.204(1)(a)-(b), C.R.S.).	

REQUEST FOR ...	IS DISCLOSURE REQUIRED?	RESPONSE LANGUAGE	OTHER GUIDANCE
Work product prepared for elected officials	No	The requested records are exempt from disclosure as work product prepared for elected officials (24-72-202(6)(b)(II), C.R.S.).	Includes advisory or deliberative materials assembled for the benefit of elected officials which express an opinion or are deliberative and intended to assist the official in reaching a decision (notes, memos, preliminary drafts, discussion copies).
Building Naming Proposals – proposals submitted for naming a building after a person	No	The requested records are exempt from disclosure as building naming proposals (24-72-204(3)(a)(XV), C.R.S.).	Once the records are part of public Board meeting materials, they become public.
Social Security Numbers	No	The requested records are exempt from disclosure (24-72-204(3)(a)(IV), C.R.S.).	SSN may be redacted if shown as part of an otherwise public record.
<b>Student Records</b>			
Student educational records – directory information only	Yes, unless student has opted out or if it is requested for credit card marketing or by a data aggregator for selling or marketing purposes	<i>If marketing exception applies, respond:</i> Pursuant to System Procedure 4-80a, Student Educational Records and Directory Information, the College cannot release student directory information to financial institutions requesting data for credit card marketing purposes or to database services for the purpose of selling data or marketing.	Remove records for any students that have opted out of having their directory information shared.

REQUEST FOR ...	IS DISCLOSURE REQUIRED?	RESPONSE LANGUAGE	OTHER GUIDANCE
Student educational records – non-directory information only	No	The requested records are considered student educational records pursuant to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and we are prohibited by law from disclosure (24-72-204(1)(b), C.R.S.).	Students may request access to <i>their own</i> records under FERPA, and College must provide within 45 days.
Student educational records – both directory and non-directory	Partial	To the extent the requested records are considered student educational records pursuant to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, we are prohibited by law from disclosure (24-72-204(1)(b), C.R.S.).	Disclose only directory information for students who have not opted out. Option to inform requestor what information is disclosable and confirm whether or not they still want this (limited) information.
Test questions, scoring keys or exam data	No	The requested records are exempt from disclosure pursuant to 24-72-204(2)(a)(II), C.R.S.).	
Honorary degree/award nominations	No	The requested records are exempt from disclosure as honorary degree/award nominations (24-72-204(3)(a)(XV), C.R.S.).	
Library user records	No	The requested records are exempt as library user records (24-72-204(3)(a)(VII), C.R.S.).	Library user records that disclose the identity of the user are exempt.

REQUEST FOR ...	IS DISCLOSURE REQUIRED?	RESPONSE LANGUAGE	OTHER GUIDANCE
<b>Personnel Records</b>			
Personnel records (non-public) – home address, home telephone, financial information, intimate relationship disclosure, or other information maintained because of the employee/employer relationship	No, unless to the person in interest or individual authorized in writing by person in interest, or the employee’s supervisor (except letters of reference – see note)	The requested records are confidential personnel files and not subject to disclosure (24-72-202(4.5) and 24-72-204(3)(II)(A), C.R.S.).	Letters of reference (including content of employment reference checks) are exempt from disclosure even to the person in interest and their supervisor (24-72-204(3)(a)(II)(A), C.R.S.).
Personnel records (public) – applications of past/current employees, employment agreements, amount paid or benefit provided incident to termination, performance ratings, final sabbatical reports, compensation (expense allowances and benefits)	Yes	<i>To the requestor:</i> Please be aware that affected employees will be notified of your request for their records. <i>To affected employees:</i> Public records pertaining to your employment (including ____ ) have been requested by ____ and will be disclosed pursuant to the Colorado Open Records Act. If you have any questions please contact me.	For performance evaluations, the ratings are public, but written narratives should be redacted.
Applications for Employment (non-President/Chancellor) – records submitted by or on behalf of applicant for employment	No		Application materials may become public as personnel files for the selected applicant, once hired.
Applications for Employment (President/Chancellor) – records submitted by or on behalf of applicant for President or Chancellor	No, unless identified as a “finalist”	The requested records are exempt from disclosure as records submitted by or on behalf of an applicant for employment (24-72-204(3)(a)(XI), C.R.S.).	If identified as a finalist, the records are subject to disclosure (except for letters of reference).



REQUEST FOR ...	IS DISCLOSURE REQUIRED?	RESPONSE LANGUAGE	OTHER GUIDANCE
Applicant Demographic Data – deidentified information provided on the applicant’s race and gender	Yes, for non-classified positions if the applicant was interviewed		
<b>Finance/Purchasing Records</b>			
Accounting or financial record – final and audited	Yes		
Accounting or financial record – draft or unaudited	No	Unaudited financial records are work product and exempt from disclosure (24-72-202(c)(III), C.R.S.).	
Procurement records	Yes, once contract or purchase is awarded		Redact any confidential information in vendor proposal documents or contracts, such as trade secrets.
Real Estate Appraisals	No	The requested records are exempt as real estate appraisals (24-72-204(2)(a)(IV), C.R.S.).	Exempt while institution is considering acquisition, but the record becomes public after title passes to the institution.
<b>Information Technology Records</b>			
Information Security Records – prepared for OIT	No	The requested records are exempt from disclosure as information security plans (24-72-202(6)(b)(X), C.R.S.).	Includes information security plans, information security incident reports, and assessment reports. (24-37.5-404, C.R.S.)
Security Records – specialized details of security arrangements of investigations of the physical and cyber assets of critical infrastructure	No	The requested records are exempt from disclosure as confidential security records (24-72-204(2)(a)(VIII), C.R.S.).	

REQUEST FOR ...	IS DISCLOSURE REQUIRED?	RESPONSE LANGUAGE	OTHER GUIDANCE
<b>Investigation Records</b>			
Sexual Harassment Complaints and Investigations	No, except to Complainant and Respondent	The requested records are exempt from disclosure as sexual harassment complaints and investigations (24-72-204(3)(a)(X), C.R.S.).	Contact Legal Affairs for guidance when parties or others request access to the investigation file.
Criminal Justice Records – arrest records, police reports, and internal affairs records	Disclosure is subject to the Colorado Criminal Justice Records Act, which is separate from CORA. Contact Legal Affairs.		See 24-72-303, C.R.S., <i>et seq.</i>
<b>Miscellaneous Records</b>			
Settlement Agreements	Yes, if monetary compensation is paid		
Foundation Records – financial expenditure records	Yes		All records related to requests for disbursement, expenditure of funds, including approval/denial of expenditure requests, that are to, on behalf of, or for the institution.
Foundation Records – Non-expenditure records	No	The Foundation is an institutionally related foundation which is not deemed to be a governmental or public body under the Colorado Open Records Act (24-72-202(1.6)).	