

Digest for Adopted Regulation R_107-13

Existing law requires: (1) the head of each agency of the Executive Department of the State Government to designate one or more employees of the agency to act as a records official for the agency; and (2) the records official to carry out the statutory duties of the agency that designated him or her with respect to a request to inspect or copy a public record of the agency. (NRS 239.008) Existing law also requires the State Library and Archives Administrator, in cooperation with the Attorney General, to prescribe certain forms and procedures to be used by an agency of the Executive Department or the records official in carrying out requests to inspect, copy or receive a copy of a public record. (NRS 239.008, 378.255)

Existing law authorizes an agency of the Executive Department to charge a fee not to exceed 50 cents per page that is in addition to any other fee authorized if a request for a copy of a public record would require the agency to make “extraordinary use of its personnel or technological resources.” (NRS 239.055) **Section 2** of this regulation interprets the term “extraordinary use of its personnel or technological resources.”

Existing law: (1) authorizes a person to request a copy of a public record in any “readily available” medium; and (2) provides that if a public book or record of an agency of the Executive Department is “readily available” for inspection or copying, the person who has legal custody or control of the public book or record shall allow a person who has submitted a request to inspect, copy or receive a copy of the public book or record. (NRS 239.010, 239.0107) **Section 3** of this regulation interprets the term “readily available.”

Existing law prohibits an officer, employee or agent of an agency of the Executive Department who has legal custody or control of a public record from refusing to provide a copy of that public record in a “readily available medium” because the officer, employee or agent has

already prepared or would prefer to provide the copy in a different medium. (NRS 239.010)

Section 4 of this regulation interprets the term “readily available medium.”

Section 5 of this regulation requires a records official of an agency of the Executive Department to ensure that certain information related to public record requests is available on the Internet website maintained by the agency.

Section 6 of this regulation sets forth requirements for the form to request to inspect, copy or receive a copy of a public record of an agency of the Executive Department.

Section 7 of this regulation requires: (1) under certain circumstances, a records official to provide a person who requests a copy of a public record with an estimate of the fee for the copy; and (2) a person who requests a copy of a public record to pay any fee for the copy before receiving the copy.

Section 8 of this regulation authorizes a records official to request additional information or clarification from a person who requests to inspect, copy or receive a copy of a public record, as necessary to determine which public record is the subject of the request.

Section 9 of this regulation requires a records official to ensure that: (1) the agency of the Executive Department provides suitable space for a person to inspect a public record; and (2) an employee of the agency observes the inspection of the public record.

Section 10 of this regulation provides that if a person requests to inspect, copy or receive a copy of a public record that does not exist, a records official or agency of the Executive Department is not required to create a public record to satisfy the request.

Existing law provides that an official state record may be disposed of only in accordance with a schedule for retention and disposition. (NRS 239.080) **Section 11** of this regulation prohibits an agency of the Executive Department from disposing of a public record that is the

subject of a public records request until the agency has complied with the request. **Section 11** also authorizes, under certain circumstances, a records official to dispose of a copy of a public record 30 days after the copy is reproduced.

Sections 13-37 of this regulation replace the term “state agency” with “agency of the Executive Department” for consistency with NRS 239.005 and 239.008.

Section 27 of this regulation revises the definition of “official state record.”