

CHAPTER 14. RECORDS, LEGAL NOTICES AND OATHS

ARTICLE 3. PUBLIC RECORDS

§ 14-3-1. Short title

Chapter 14, Article 3 NMSA 1978 may be cited as the "Public Records Act".

HISTORY: 1953 Comp., § 71-6-1, enacted by Laws 1959, ch. 245, § 1; 1995, ch. 110, § 7.

§ 14-3-2. Definitions

As used in the Public Records Act [Chapter 14, Article 3 NMSA 1978]:

A. "commission" means the state commission of public records;

B. "administrator" means the state records administrator;

C. "public records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the informational and historical value of data contained therein. Library or museum material of the state library, state institutions and state museums, extra copies of documents preserved only for convenience of reference and stocks of publications and processed documents are not included;

D. "agency" means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico;

E. "records center" means the central records depository which is the principal state facility for the storage, disposal, allocation or use of noncurrent records of agencies or materials obtained from other sources;

F. "microphotography system" means all microphotography equipment, services and supplies; and

G. "microphotography" means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

HISTORY: 1953 Comp., § 71-6-2, enacted by Laws 1959, ch. 245, § 2; 1963, ch. 186, § 1; 1977, ch. 301, § 1; 1995, ch. 27, § 2.

§ 14-3-3. State commission of public records; creation

A. A "state commission of public records" is established consisting of:

- (1) the secretary of state;
- (2) the secretary of general services;
- (3) the state law librarian;
- (4) the director of the museum of New Mexico;
- (5) the state auditor;
- (6) the attorney general; and

(7) a recognized, professionally trained historian in the field of New Mexico history, resident in New Mexico, appointed by the governor for a term of six years. Each member of the commission may designate an alternate to serve in his stead.

B. The commission shall elect one of its members to be chairman and another to be secretary. The members of the commission shall serve without compensation other than actual expenses of attending meetings of the commission or while in performance of their official duties in connection with the business of the commission.

C. The commission shall hold not less than four meetings during each calendar year and may hold special meetings as may be necessary to transact business of the commission. All meetings shall be called by the chairman or when requested in writing by any two members of the commission. Four members of the commission shall constitute a quorum.

D. The administrator shall attend all meetings of the commission.

HISTORY: 1953 Comp., § 71-6-3, enacted by Laws 1959, ch. 245, § 3; 1977, ch. 247, § 181; 1983, ch. 301, § 32.

§ 14-3-4. Duties and powers of commission

It shall be the duty of the commission to:

A. employ as state records administrator a competent, experienced person professionally trained as an archivist and records manager who shall serve at the pleasure of the commission. He need not be a resident of New Mexico at the time of his employment. His salary shall be fixed by the commission;

B. approve the biennial budget covering costs of the operations set forth in this act [Chapter 14, Article 3 NMSA 1978], as prepared by the administrator for presentation to the state legislature;

C. decide, by majority vote, any disagreements between the administrator and any state officer regarding the disposition of records within the custody of said officer, such decisions to have the effect of law;

D. consider the recommendations of the administrator for the destruction of specifically reported records, and by unanimous vote either order or forbid such destruction;

E. approve in writing, or reject, the written terms and conditions of each proposed loan of documentary material to the records center, as agreed upon by the lender and the administrator;

F. adopt and publish rules and regulations to carry out the purposes of the Public Records Act [Chapter 14, Article 3 NMSA 1978];

G. request any agency to designate a records liaison officer to cooperate with, assist and advise the administrator in the performance of his duties and to provide such other assistance and data as will enable the commission and administrator properly to carry out the purposes of the Public Records Act; and

H. prepare an annual report to the governor on the operations conducted under the terms of this act during the previous year, including a complete fiscal report on costs and effected savings, and cause same to be published.

HISTORY: 1953 Comp., § 71-6-4, enacted by Laws 1959, ch. 245, § 4.

§ 14-3-6. Administrator; duties

The administrator is the official custodian and trustee for the state of all public records and archives of whatever kind which are transferred to him from any public office of the state or from any other source. He shall have overall administrative responsibility for carrying out the purposes of the Public Records Act [Chapter 14, Article 3 NMSA 1978], and may employ necessary personnel, purchase equipment and provide facilities as may be required in the execution of the powers conferred and duties imposed upon him. He shall keep the commission advised throughout the year of operations conducted and future operations projected, and shall report annually to the commission which records have been destroyed, transferred or otherwise processed during the year. The administrator shall establish a records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of official records. It shall be the duty of the administrator, in cooperation with and with the approval of the general services department, to establish standards, procedures and techniques for effective management of public records, to make continuing surveys of paperwork operations, and to recommend improvements in current records management practices including the use of space, equipment and supplies employed in creating, maintaining and servicing records. It shall be the duty of the head of each state agency to cooperate with the administrator in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the agency's records. The administrator shall establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the Public Records Act. Records disposal schedules shall be filed with the librarian of the supreme court library, and shall not become effective until thirty days after the date of filing. Records so scheduled may be transferred to the records center at regular intervals, in accordance with the regulations of the administrator.

HISTORY: 1953 Comp., § 71-6-6, enacted by Laws 1959, ch. 245, § 6; 1965, ch. 81, § 1; 1983, ch. 301, § 33.

§ 14-3-7. Inspection and survey of public records

The administrator is authorized to inspect or survey the records of any agency, and to make surveys of records management and records disposal practices in the various agencies, and he shall be given the full cooperation of officials and employees of the agencies in such inspections and surveys. Records, the use of which is restricted by or pursuant to law or for reasons of security or the public interest, may be inspected or surveyed by the administrator, subject to the same restrictions imposed upon employees of the agency holding the records.

HISTORY: 1953 Comp., § 71-6-7, enacted by Laws 1959, ch. 245, § 7.

§ 14-3-8. Records center

A records center is established in Santa Fe under the supervision and control of the administrator. The center, in accordance with the regulations established by the administrator and the commission, shall be the facility for the receipt, storage or disposition of all inactive and infrequently used records of present or former state agencies or former territorial agencies which at or after the effective date of this act may be in custody of any state agency or instrumentality, and which are not required by law to be kept elsewhere, or which are not ordered destroyed by the commission.

Records required to be confidential by law and which are stored in the center shall be available promptly when called for by the originating agency, but shall not be made available for public inspection except as provided by law. All other records retained by the center shall be open to the inspection of the general public, subject to reasonable rules and regulations prescribed by the administrator. Facilities for the use of these records in research by the public shall be provided in the center.

HISTORY: 1953 Comp., § 71-6-8, enacted by Laws 1959, ch. 245, § 8.

§ 14-3-8.1. Records center revolving fund; created; revenues from sales deposited in fund

The "records center revolving fund" is created in the state treasury. Money from the sale of state records center publications, services, equipment, supplies and materials shall be deposited in the fund. The fund shall be administered by the state records center, and money in the fund is appropriated to the state records center to carry out the administrative purposes of the Public Records Act [Chapter 14, Article 3 NMSA 1978] and the State Rules Act [Chapter 14, Article 4 NMSA 1978]. Expenditures from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the state records administrator or his authorized representative.

HISTORY: Laws 2002, ch. 56, § 2.

§ 14-3-9. Disposition of public records

Upon completion of an inspection or survey of the public records of any agency by the administrator, or at the request of the commission or the head of any agency, the administrator, attorney general and the agency official in charge of the records of that agency shall together make a determination as to whether:

- A. the records shall be retained in the custody of the agency;
- B. the records shall be transferred to the records center; or
- C. a recommendation for destruction of the records shall be made to the commission.

If it is determined that the records are to be transferred to the records center, they shall be within a reasonable time so transferred. A list of the records so transferred shall be retained in the files of the agency from which the records were transferred.

Public records in the custody of the administrator may be transferred or destroyed only upon order of the commission.

HISTORY: 1953 Comp., § 71-6-9, enacted by Laws 1959, ch. 245, § 9.

§ 14-3-10. Disagreement as to value of records

In the event the attorney general and the administrator determine that any records in the custody of a public officer including the administrator are of no legal, administrative or historical value, but the public officer having custody of the records or from whose office the records originated fails to agree with such determination or refuses to dispose of the records, the attorney general and the administrator may request the state commission of public records to make its determination as to whether the records should be disposed of in the interests of conservation of space, economy or safety.

HISTORY: 1953 Comp., § 71-6-10, enacted by Laws 1959, ch. 245, § 10.

§ 14-3-11. Destruction of records

If it is determined by the administrator, attorney general and agency head that destruction of records will be recommended, the administrator shall have prepared a list of records, together with a brief description of their nature, and shall place upon the agenda of the next meeting of the commission the matter of destruction of the records. The records may be stored in the center awaiting decision of the commission.

The commission's decision with reference to destruction of the records shall be entered on its minutes, together with the date of its order to destroy the records and a general description of the records which it orders to be destroyed. A copy of the commission's order shall be filed with the librarian of the supreme court library.

No public records shall be destroyed if the law prohibits their destruction

HISTORY: 1953 Comp., § 71-6-11, enacted by Laws 1959, ch. 245, § 11; 1965, ch. 81, § 2.

§ 14-3-12. Transfer of records upon termination of state agencies

All public records of any agency, upon the termination of the existence and functions of that agency, shall be checked by the administrator and the attorney general and either transferred to the custody of another agency having a use for the records, or to the custody of the administrator at the center in accordance with the procedure of the Public Records Act [Chapter 14, Article 3 NMSA 1978].

When an agency is terminated or reduced by the transfer of its powers and duties to another agency or to other agencies, its appropriate public records shall pass with the powers and duties so transferred.

HISTORY: 1953 Comp., § 71-6-12, enacted by Laws 1959, ch. 245, § 12.

§ 14-3-13. Protection of records

The administrator and every other custodian of public records shall carefully protect and preserve such records from deterioration, mutilation, loss or destruction and, whenever advisable, shall cause them to be properly repaired and renovated. All paper, ink and other materials used in public offices for the purposes of permanent records shall be of durable quality.

HISTORY: 1953 Comp., § 71-6-13, enacted by Laws 1959, ch. 245, § 13.

§ 14-3-14. Advisory groups

The commission upon recommendation of the administrator may from time to time appoint advisory groups to more effectively obtain the best professional thinking of the bar, historians, political scientists, librarians, accountants, genealogists, patriotic groups, associations of public officials and other groups, on the steps to be taken with regard to any particular group or type of records.

HISTORY: 1953 Comp., § 71-6-14, enacted by Laws 1959, ch. 245, § 14.

§ 14-3-15. Reproduction on film; evidence; review, inventory and approval of systems

A. Any public officer of the state or of any district or political subdivision may cause any public records, papers or documents kept by him to be photographed, microphotographed or reproduced on film.

B. The state records administrator shall review any proposed state agency microphotography system and shall advise and consult with the agency. The administrator has the authority to approve or disapprove the system of any state agency.

C. The microphotography system used pursuant to this section shall comply with the minimum standards approved by the New Mexico commission of public records. The microphotography system used to reproduce such records on film shall be one which accurately reproduces the original in all details.

D. The administrator shall establish and maintain an inventory of all microfilm equipment owned or leased by state agencies. The administrator is authorized to arrange the transfer of microphotography equipment from a state agency which does not use it, and which has released it, to a state agency needing such equipment for a current microphotography system.

E. Photographs, microphotographs or photographic film made pursuant to this section shall be deemed to be original records for all purposes, including introduction in evidence in all courts and administrative agencies. A transcript, exemplification or certified copy, for all purposes, shall be deemed to be a transcript, exemplification or certified copy of the original.

F. Whenever such photographs, microphotographs or reproductions on film are properly certified and are placed in conveniently accessible files, and provisions are made for preserving, examining and using them, any public officer may cause the original records from which the photographs or microphotographs have been made, or any part thereof, to be disposed of according to methods prescribed by Sections 14-3-9 through 14-3-11 NMSA 1978. Copies shall be certified by their custodian as true copies of the originals before the originals are destroyed or lost, and the certified copies shall have the same effect as the originals. Copies of public records transferred from the office of origin to the administrator, when certified by the administrator or his deputy, shall have the same legal effect as if certified by the original custodian of the records.

G. For the purposes of this section, "state agency" shall include the district courts.

HISTORY: 1953 Comp., § 71-6-15, enacted by Laws 1959, ch. 245, § 15; 1975, ch. 215, § 1; 1977, ch. 301, § 2.

§ 14-3-15.1. Records of state agencies; public records; copy fees; computer databases; criminal penalty.

A. Except as otherwise provided by federal or state law, information contained in information systems databases shall be a public record and shall be subject to disclosure in printed or typed format by the state agency that has inserted that information into the database, in accordance with the Public Records Act [Chapter 14, Article 3 NMSA 1978], upon the payment of a reasonable fee for the service.

B. The administrator shall recommend to the commission the procedures, schedules and technical standards for the retention of computer databases.

C. The state agency that has inserted data in a database may authorize a copy to be made of a computer tape or other medium containing a computerized database of a public record for any person if the person agrees:

(1) not to make unauthorized copies of the database;

(2) not to use the database for any political or commercial purpose unless the purpose and use is approved in writing by the state agency that created the database;

(3) not to use the database for solicitation or advertisement when the database contains the name, address or telephone number of any person unless such use is otherwise specifically authorized by law;

(4) not to allow access to the database by any other person unless the use is approved in writing by the state agency that created the database; and

(5) to pay a royalty or other consideration to the state as may be agreed upon by the state agency that created the database.

D. If more than one state agency is responsible for the information inserted in the database, the agencies shall enter into an agreement designating a lead agency. If the agencies cannot agree as to the designation of a lead state agency, the commission shall designate one of the state agencies as the lead agency to carry out the responsibilities set forth in this section.

E. Subject to any confidentiality provisions of law, any state agency may permit another state agency access to all or any portion of a computerized database created by a state agency.

F. If information contained in a database is searched, manipulated or retrieved or a copy of the database is made for any private or nonpublic use, a fee shall be charged by the state agency permitting access or use of the database.

G. Except as authorized by law or rule of the commission, any person who reveals to any unauthorized person information contained in a computer database or who uses or permits the unauthorized use or access of any computer database is guilty of a misdemeanor, and upon conviction the court shall sentence that person to jail for a definite term not to exceed one year or to payment of a fine not to exceed five thousand dollars (\$ 5,000) or both. That person shall not be employed by the state for a period of five years after the date of conviction.

HISTORY: Laws 1986, ch. 81, § 9; 1993, ch. 197, § 11; 1978 Comp., § 15-1-9, amended and recompiled as 1978 Comp., § 14-3-15.1 by Laws 1995, ch. 110, § 8.

§ 14-3-15.2. Electronic authentication; substitution for signature

Whenever there is a requirement for a signature on any document, electronic authentication that meets the standards promulgated by the commission may be substituted.

HISTORY: Laws 1995, ch. 27, § 1.

§ 14-3-16. Attorney general may replevin state records

On behalf of the state and the administrator, the attorney general may replevin any papers, books, correspondence or other public records which were formerly part of the records or files of any public office in the territory or state of New Mexico, and which the state still has title to or interest in and which have passed out of the official custody of the state, its agencies or instrumentalities.

HISTORY: 1953 Comp., § 71-6-16, enacted by Laws 1959, ch. 245, § 16.

§ 14-3-17. Approval of existing state agency systems

Upon the effective date of this act, the state records administrator shall review any existing state agency microphotography system and, after consultation with the agency, shall approve, disapprove or require modification to the system. For the purposes of this section, "state agency" shall include the district courts. Upon disapproval, the agency shall cease to use the system. Modifications shall be completed within a period specified by the administrator.

HISTORY: 1953 Comp., § 71-6-17, enacted by Laws 1975, ch. 215, § 2.

§ 14-3-18. County and municipal records

The administrator may advise and assist county and municipal officials in the formulation of programs for the disposition of public records maintained in county and municipal offices.

HISTORY: 1953 Comp., § 71-6-17.1, enacted by Laws 1963, ch. 186, § 2; 1965, ch. 81, § 3.

§ 14-3-19. Storage equipment, supplies and materials; microfilm services and supplies; purchase by state commission of public records for resale

The state commission of public records may purchase for resale such storage boxes, forms, microfilm supplies necessary to the providing of microfilm services and other supplies and materials as in its judgment are necessary to facilitate the various aspects of its programs. The commission may sell such items and services at cost plus a five percent handling charge. All receipts from such sales shall go into the records center revolving fund.

HISTORY: 1953 Comp., § 71-6-18, enacted by Laws 1968, ch. 14, § 1; 2002, ch. 56, § 1.

§ 14-3-20. Interstate compacts; filing; index

A. Each agency of this state and each political subdivision of the state entering into or administering an interstate compact or other intergovernmental agreement between or among states, subdivisions of this state and other states or between this state or any subdivision and the federal government, having the force of law and to which this state or any subdivision is a party, shall file with the records center:

- (1) a certified copy of the compact or agreement;
- (2) a listing of all other jurisdictions party to the compact or agreement and the date on which each jurisdiction entered into participation;
- (3) the status of each compact or agreement with respect to withdrawals of participating jurisdictions;
- (4) citations to any act or resolution of the congress of the United States consenting to the compact or agreement; and
- (5) any amendment, supplementary agreement or administrative rule or regulation having the force of law and implementing or modifying the compact or agreement.

B. The records center shall index these documents and make them available for inspection upon request of any person during normal business hours.

C. The provisions of this section are in addition to other requirements of law for filing, publication or distribution.

D. No compact or agreement entered into after the effective date of this section shall become effective until filed as required in this section.

E. The executive official in charge of any state agency or political subdivision which fails to file any compact or agreement required by this section to be filed is guilty of a misdemeanor.

F. The records center shall be furnished copies of all interstate compacts, when available, as defined in this section, which have been filed with the supreme court librarian.

HISTORY: 1953 Comp., § 71-6-19, enacted by Laws 1963, ch. 185, § 1; 1981, ch. 221, § 1.

§ 14-3-21. [State publications; manuals of procedure; rules; reports; uniform style and form.]

The state records administrator shall develop and recommend to the state commission of public records uniform standards of style and format for the following:

A. manuals of procedure prepared and published by state agencies for the guidance of public officers and employees engaged in operations required for the efficient operation of state and local government, including but not limited to acquiring space, budgeting, accounting, purchasing, contracting, vouchering, printing, appointment and dismissal of employees and record maintenance;

B. manuals of procedure prepared and published by state agencies for the guidance of their own employees and for their own operations;

C. official rules and regulations and reprints of laws published by state agencies, excluding session laws published by the secretary of state; and

D. official reports of state agencies required by law, excluding the budget document presented to the legislature.

The state commission of public records, after consultation with the affected agencies, and with the approval of the governor, shall adopt and promulgate uniform standards of style and format for the above publications and a schedule of distribution for each class of publication which shall be binding upon all state agencies. "Agencies" means, for the purposes of this section, all state departments, bureaus, commissions, committees, institutions and boards, except those agencies of the legislative and judicial branches, and those educational institutions listed in Article 12, Section 11 of the New Mexico Constitution.

HISTORY: 1953 Comp., § 71-6-20, enacted by Laws 1965, ch. 154, § 1.

§ 14-3-22. Public policy on certain publications; state commission of public records duties

A. It is the intent of the legislature and the public policy of this state to reduce unnecessary expense to the taxpayers of this state in connection with publications of state agencies designed primarily for the purpose of reporting to or the informing of the governor, the legislature, other state agencies or the political subdivisions of this state.

B. The state commission of public records shall develop and adopt regulations which shall be binding upon all state agencies. The regulations shall provide for uniform standards for those publications set forth in Subsection A of this section and shall include but be not limited to:

(1) a standard size format to accommodate paper of the most economical type available;

(2) prohibiting the use of expensive covers, binders and fasteners;

(3) prohibiting the use of photographs, art work and design, unless absolutely necessary for clarification of the report;

(4) limiting the use of color stock paper, where such color stock would be more expensive than the use of white paper; and

(5) requiring offset or mimeograph or other means of duplication when it cannot be demonstrated that printing of such publication would be equal to or less than the cost of offset, mimeograph or other means of duplication.

C. The state commission of public records shall maintain constant and continuing supervision of such publications by state agencies and shall report persistent violations of the regulations made pursuant to this act [Chapter 14, Article 3 NMSA 1978] to the secretary of general services.

HISTORY: 1953 Comp., § 71-6-21, enacted by Laws 1977, ch. 209, § 1; 1983, ch. 301, § 34.

§ 14-3-23. [Manuals of procedure; preparation by state agencies; review by state records administrator; publication.]

Each state agency which has an official duty to establish methods and procedures involved in the internal structure and operation of state government, including but not limited to acquiring space, budgeting, accounting, purchasing, contracting, vouchering, printing, appointment and dismissal of employees and record-keeping, shall prepare, within the means provided by current operating budgets, manuals of procedure for the guidance of public officers and employees engaged in such work. Such manual or manuals shall be reviewed and ordered published by the state records administrator and in accordance with uniform standards of style and format promulgated by the state commission of public records.

HISTORY: 1953 Comp., § 71-6-22, enacted by Laws 1965, ch. 154, § 3