

Scope: Admin
Career
Volunteer

Truckee Meadows Fire Protection District

POLICY

Public Records Request Policy P603.0B

References:

Initiated: 11/10/2020

Revised: Date

INTENT:

This public records policy establishes a process for responding to public records requests that are made to Truckee Meadows Fire Protection District (TMFPD).

POLICY:

A. Records Official

1. person shall be assigned to coordinate TMFPD's response to public records requests ("records official"). All public records requests should be forwarded to the records official immediately. The records official or designee shall determine the timeline required to promptly respond to the request and the response's content following the procedure in this Policy's section 4.

B. Public Records Explained

1. **Public records to be made available.** Nevada law requires "public books and public records of a governmental entity" to be available unless otherwise declared by law to be confidential. NRS 239.010(1). Access to public records is favored. Any limitations or restrictions on access must be narrowly applied. NRS 239.001

2. **Meaning of "public books and public records."** It includes information and other documents created or accumulated in the course of conducting public business that document the activities and business of public agencies. Documentation that does not serve as the record of an official action of a local governmental entity are not public records.

a. Examples of public records include, without limitation, all documents, papers, letters, bound ledger volumes, maps, charts, blueprints, drawings, photographs, films, newspapers received pursuant to NRS 247.070, recorded media, financial statements, statistical tabulations and other documentary materials or information, regardless of physical form or characteristic.

3. **No duty to create a record.** A public record is generally a documentary "record" and not simply a request for information. If a record does not already exist, there is generally no duty to create a record in response to a public records request. But when an agency has a computer program that can readily compile the requested information, the agency is not excused from its duty to produce and disclose that information.

4. **Confidential records are not public records.** A record is not available to the public if it is declared by law to be confidential. A record may also be confidential if it is privileged or if a common-law balancing-of-the-interests test shows that the public interest in disclosure is outweighed by other interests such as privacy, the ability of the agency to perform its function, or other substantial concerns.

1 **C. Procedures for Handling Public Records Requests**

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3 **1. *Requests forwarded to records official.*** Public records may be in writing or oral. All requests
4 for public records should be immediately forwarded to the records official or designee for
5 processing.

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7 a. The records official shall acknowledge receipt of the request in writing to the requester. If the
8 requestor submits the request by e-mail, this acknowledgement also may be sent by e-mail.

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10 b. The records official shall forward the request to the employee who may best be able to
11 respond or where the records are maintained.

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13 **2. *Some action is required within 5 business days.*** Within 5 business days after TMFPD
14 receives the request, the records official will provide one of the following:

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16 a. inspection or copies of records;

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18 b. written notice of the location of the records if TMFPD does not have legal custody of the
19 record;

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21 c. written notice if the record has been destroyed under TMFPD's records retention schedule;

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23 d. if TMFPD cannot provide the record by the end of the 5th business day after the request is
24 received, written notice of that fact and a date and time when the record will be available; or

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26 e. written notice denying the request because the record is confidential. If there is a claim of
27 confidentiality, the notice must include citation to the specific statute or legal authority that
28 makes the book or record, or part thereof, confidential.

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30 **3. *Records official may assist requester in focusing records request.*** A reasonable effort
31 should be made to assist the requester to focus the request in such a manner as to maximize the
32 likelihood the requester will be able to inspect, copy or receive a copy of the public book or record
33 as expeditiously as possible.

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35 **D. Fees for Public Records**

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37 **1. *TMFPD will charge its actual cost to provide records.*** In accordance with Nevada law,
38 TMFPD will charge its actual cost for providing a public record, unless a specific statute or
39 regulation sets a fee that the governmental entity must charge for the copy or requires that the copy
40 be provided without charge.

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42 a. Actual cost" means the direct cost incurred by TMFPD in providing the public record,
43 including without limitation, the cost of ink, toner, paper, media, and postage. The term does not
44 include a cost that a governmental entity incurs regardless of whether or not a person requests
45 a copy of a particular public record.

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47 **2. *Fee schedule to be made available.*** TMFPD will post a schedule of fees on its website and in
48 a conspicuous place at its administrative office.

E. General Guidance for Processing Public Records Requests

1. The purpose of the public records law found in NRS Chapter 239 is to foster democratic principles by providing members of the public with prompt access to inspect, copy or receive a copy of public books and records to the extent permitted by law. The law must be construed liberally to carry out this important purpose. Any limitation on access to public books and records by members of the public must be construed narrowly.
2. In order to preserve the records, original public records may not be removed from TMFPD during inspection by members of the public and must be monitored by an employee while any review is being conducted.
3. TMFPD will make reasonable efforts to assist the requestor to focus the request in such a manner as to maximize the likelihood the requester will be able to promptly receive a copy of the information being requested. NRS 239.0107(c)(2).
4. Confidential records of federal, state, and local governments shared with TMFPD will not be disclosed without prior written authorization from that government agency. Further, mere possession of records or information may not mean that TMFPD has legal custody or control over those records.
5. If confidential information can be redacted or separated from the record, TMFPD will do so, and provide the non-confidential portion of the record. NRS 239.010(3)
6. If a request must be denied because the public book or record, or part thereof, is confidential, TMFPD shall provide notice of that fact and a citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential. NRS 239.0107(1)(d).
7. Public records must be provided in any medium in which they are readily available. The records official or the official's designee shall not refuse to provide a copy of the record in a readily available medium because the official or designee has already prepared or would prefer to provide the copy in a different medium.
8. If requested, an agency shall provide a copy of a public record in an electronic format by means of an electronic medium. But nothing requires an agency to provide a copy of a public record if an electronic format or by means of an electronic medium if:
 - a. the public record was not created or prepared in an electronic medium; and is not available in an electronic format; or
 - b. providing the public record in an electronic format or by means of an electronic medium would give access to proprietary software or would require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.
9. Electronic databases that contain the electronic mail addresses or telephone numbers of individuals that have provided the addresses or numbers for the purpose of or in the course of communicating with TMFPD are confidential and may not be disclosed in its entirety as a single unit unless in response to an order issued by a court. However, individual telephone numbers or electronic mail addresses of a person are not confidential and may be disclosed individually.

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2 **10.** Public Records Requests must be responded to no later than the end of the fifth business day
3 after the date on which the request is received by TMFPD. The response may include an estimate
4 of the time it will require to provide access or a copy.
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6 **11.** Public records requests may be written or verbal.
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8 **12.** If the person responding in TMFPD where the records are maintained or who is responsible for
9 the subject matter of the request has questions concerning inspection or reproduction of a
10 requested document, he or she should consult the records official and/or his or her designee.
11 Likewise, if the records official and/or his or her designee have questions concerning inspection or
12 reproduction of a requested document, he or she should consult the chief or his or her designee in
13 TMFPD where the records are maintained or which is responsible for the subject matter of the
14 request.
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16 **13.** In appropriate situations, the assigned deputy district attorney should be consulted for
17 determining whether:
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19 **a.** the item requested is a public record, available for review and reproduction;
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21 **b.** the item requested is a public record which some special legal considerations might dictate
22 should not be made available for inspection and reproduction; and
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24 **c.** if a legal balancing test is to be performed, the requestor should be informed and then
25 notified as soon as a decision has been made. Balancing tests should be performed without
26 delay.
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28 **14.** Copyrighted materials may be duplicated—without risk of infringement— when reproduction is
29 for the specific purpose of: “criticism, comment, news reporting, teaching, scholarship, or
30 research.”. When the records official or designee is aware that some other use is intended,
31 consultation with the District Attorney’s Office
32 may be necessary to insure there is no infringement by reproduction of copyrighted material.
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34 **15.** The number of hours spent on a matter is generally not confidential information.
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36 **16. Penalties.** In addition to any relief awarded pursuant to NRS 239.011, if a court determines that
37 a governmental entity willfully failed to comply with the provisions of this chapter concerning a
38 request to inspect, copy or receive a copy of a public book or record, the court must impose on the
39 governmental entity a civil penalty of: (a) For a first violation within a 10-year period, \$1,000. (b) For
40 a second violation within a 10-year period, \$5,000. (c) For a third or subsequent violation within a
41 10-year period, \$10,000.

APPROVED BY:

Board of Fire Commissioners Chair / Date

Fire Chief / Date