INFORMATION FOR THE PUBLIC

ON MAKING RECORDS REQUESTS TO THE UNIVERSITY OF ALASKA

1. **Who do I send a request to?** Routine requests may be handled by the custodian of the records. Non-routine requests should be directed to General Counsel, with copies to the anticipated custodian of the records.

2. **What law governs the University?** The Alaska Public Records Act, which can be found in Alaska Statutes starting with AS 40.25.110, and Board of Regents Policy 06.02.010-.100 (attached).

3. **What will routine requests cost?** The University will generally charge copying costs of $.25 per page for limited requests. Payment is due before disclosure.

4. **What will non-routine requests cost?** Where requests or a number of requests together will require 5 person hours in a calendar month, the University will charge the personnel costs associated with producing the records. The University will estimate the personnel costs before producing. Payment will be required in advance of the search.

5. **How can I reduce the cost of my request?** Focus your request by talking with the custodian of the records. Determine how the records are kept, and how it will be easiest for the custodian to produce what you are specifically looking for.

6. **Can costs be waived?** A request for a cost waiver may be made by including a request for waiver which explains why waiver is in the public interest. Waivers are discretionary with the University.

7. **When can I expect a response?** Most routine requests will be granted immediately. Non-routine requests generally will result in an initial response in 15 working days. Requests which are unclear will result in additional time for clarification. Production may take longer with complex requests.

8. **Where can I file an appeal if my request is denied?** You can submit a written appeal to the chancellor of the major administrative unit, or to the president if a statewide administrative unit is involved. You must mail or hand-deliver your appeal within 30 working days after the denial is issued. Board of Regents Policy 06.02.090 sets out the appeal process.

Revised 02-10

Applicable Law

The Alaska Public Records Act, found in Alaska Statutes beginning at AS 40.25.110 and Board of Regents Policy 06.02.010-.100 govern public record requests at the University. The Act generally requires that a requestor or requesting organization pay the standard unit cost of duplication for copies ($.25/page). However, **if production exceeds five person-hours in a calendar month**, the requestor is generally required to pay the cost of producing the records.

> (c) If the production of records for one requester in a calendar month exceeds five person-hours, the public agency **shall require** the requester to pay the personnel costs required during the month to complete the search and copying tasks. The personnel costs may not exceed the actual salary and benefit costs for the personnel time required to perform the search and copying tasks. The requester shall pay the fee before the records are disclosed, and the public agency may require payment in advance of the search. (Emphasis added.)

AS 40.25.120 provides that matters which are confidential by state and federal law, which would include the constitution of Alaska, state and federal statutes and regulations, as well as common law, are not subject to disclosure under the public records act.

The University may not release records made confidential by law, or which constitute an unwarranted invasion of the right to privacy. To do so would violate the law, cause damage to individuals, and potentially result in lawsuits and damage claims against the University.

Board of Regents Policies 06.02.010 – 06.02.100 describe the processes for making and responding to public records requests at the University. The University is **not** subject to regulations at 6 AAC 96.100, et seq, governing executive branch responses to public records requests. (See 6 AAC 96.900(7), which explicitly limits those regulations to executive branch agencies.)

Board of Regents Policies

Chapter 06.02 – Public Records

P06.02.010. Access to Public Records.

In accordance with AS 14.40.453, AS 40.25.110 - 40.25.220, and this policy, the university will provide copies of public records upon written request and payment of the applicable fees. All disclosable public records will be made available upon compliance with the requirements of AS 40.25.110 - AS 40.25.125 and this policy. The university may not require a justification or explanation of need or intended use, but it may inquire whether the person making the request is a party, or represents a party, involved in litigation with the university. If so, the requestor shall be informed to make the request in accordance with applicable court rules.

(06-07-07)

P06.02.020. Definition of Public Records.

A. In P06.02, "public records" has the meaning given in AS 40.25.220, which includes books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by the university, or by a private contractor for the university, and that are preserved for their informational value or as evidence of the organization or operation of the university. "Public records" does not include proprietary software programs.

B. "Public records" does not include the exceptions listed in AS 40.25.120, which include but are not limited to, records required to be kept confidential by a federal law or regulation or by state law; medical and related public health records; certain records or information compiled for law enforcement purposes, if production of records or information could reasonably be expected to interfere with enforcement proceedings, deprive a person of a right to a fair trial or an impartial adjudication, constitute an unwarranted invasion of the personal privacy of a person, disclose the identity of a confidential source, or endanger the life or physical safety of an individual.

(06-07-07)

P06.02.030. Confidentiality.

University records may be confidential under AS 14.40.367 (university land), AS 14.40.453 (confidentiality of research), AS 40.25.140 (library records), or other state or

federal law or regulation, or protected by the constitutional right to privacy or other statutory or common law.

(06-07-07)

P06.02.040. Requests for Public Records.

A. A request for a public record must be in writing and delivered to the department of the university responsible for maintaining the record. The requestor must describe the public records sought in sufficient detail to enable the department to locate the records. If the records are described in general terms, the department shall attempt to communicate with the requestor in order to identify the public records requested, speed the response, and lessen the administrative burden of processing an overly broad request.

B. If the department determines that the description of the records sought is not sufficient to allow it to identify the requested records, it shall, no later than 15 working days after receipt of the written request, notify the requestor that the request cannot be processed until additional information is furnished. Time limits set out in other provisions of P06.02 do not begin to run until a sufficient written description of the records is received in the department of the university responsible for maintaining the records.

(06-07-07)

P06.02.050. Copies and Fees.

A. Fees shall be charged in accordance with AS 40.25.110. The standard unit charge for copies of public records is 25 cents per page. The fee to search for and duplicate a public record will reflect the actual costs for copying the record in the requested format, including costs for paper, tapes, microfiche, disks or other media and computer processing time, and salary and benefits costs for the employees performing the search and copying.

B. Fees must be paid before the records are disclosed. A department may require payment in advance of a search for a public record if it reasonably believes that the search will generate a fee.

C. Fees may be reduced or waived if the university determines that the reduction or waiver is in the public interest. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated. A fee of $5 or less may be waived if the fee is less than the cost to the university to arrange for payment.

(06-07-07)

P06.02.060. Response to Request.

(a) The university is not required to compile or summarize its public records or to create new records in response to a request for public records.

B. Within 15 working days after the date the department receives a written request for public records that complies with AS 40.25.110 – 40.25.220 and P06.02, it shall

1. furnish all requested records that are disclosable; and

2. advise the requestor which of the requested records are nondisclosable, if any, and the legal authority and facts supporting nondisclosure.

C. Any time that elapses between the time a requestor is sent notice that processing the request will generate chargeable fees and the time the requestor pays those fees is excluded from the 15 working-day period of B. of this section or any extension of that period.

D. A department may extend the basic 15 working-day period established under B. of this section for a period not to exceed 10 additional working days by providing notice to the requestor stating the reasons for the extension and the date by which the office expects to be able to furnish the requested records or to issue a determination that the records are not disclosable.

E. The time limits set out in this section do not apply if the requestor agrees in writing that the requested records need not be supplied until a specified date. A department shall give a written response granting or denying a request for public records within the prescribed time limit. If a written response is not received by a requestor by the expiration of the time limit, the requestor may consider the request denied.

(06-07-07)

P06.02.070. Deletion of Nondisclosable Information.

If a record contains both disclosable and nondisclosable information, the nondisclosable information must be segregated and withheld and the disclosable information must be disclosed. If the disclosable portions of a record cannot reasonably be segregated from the nondisclosable portions in a manner that allows information meaningful to the requestor to be disclosed, the department may not disclose the record.

(06-07-07)

P06.02.080. Denial of Request.

A. A request for a public record may be denied by the department head in accordance with this section. A denial of a written request is considered to be issued at the time the denial is either delivered to the United States Postal Service for mailing, or hand-delivered to the requestor. A request for a public record may be denied if:

1. nondisclosure of the record is authorized by a federal law or regulation, or by state law;

2. the record is not known to exist after the department makes a diligent search for it;

3. the record is not in the department's possession and, after a diligent search, the department does not know where the record is to be found;

4. the record was destroyed prior to the request in accordance with record-retention procedures; or

5. the record is believed to be in the department's possession but has not yet been located, in which case the department shall continue to search until the record is located or until it appears that the record does not exist or is not in the department's possession.

B. A denial of a written request must be in writing; must state the reasons for the denial, including any specific legal grounds for the denial; and must be dated and signed by the department head issuing the denial. A copy of P06.02 must be enclosed with the denial. A denial of a written request, in whole or in part, must state that the requestor may administratively appeal the denial by complying with the procedures in P06.02.

(06-07-07)

P06.02.090. Appeal of Denial of Request.

A. A requester whose written request has been denied, in whole or in part, may seek reconsideration of the denial by submitting a written appeal to the chancellor of the involved MAU, or to the president if a statewide administrative unit is involved.

B. An appeal must be mailed or hand-delivered to the appropriate university office within 30 working days after the denial is issued and must include the date of

denial and the name and address of the person responsible for the denial. The appeal must also identify the records to which access was denied and that are the subject of the appeal.

C. If an appeal is from the failure of the university to respond to the records request within the appropriate time limit, the appeal must so state, must identify the records sought, and must identify the university office to which the request was directed and the date of the request.

D. The 30 working days within which an appeal must be filed begins to run upon the issuance of the denial or the expiration of the time period within which the university should have responded, whichever occurs first.

E. The person responsible for the denial and any other interested party may file a written response to the appeal with the chancellor or the president as appropriate. A response shall be filed no later than the 7th working day after the university receives the appeal, unless the chancellor or president grants an extension of time. A person who files a written response to an appeal must mail or hand-deliver a copy of the response to the requester and to all other persons who have filed a response. The requester may file a reply no later than the 7th working day after a response is mailed or hand-delivered.

(04-15-04)

P06.02.100. Appeal Determination.

A. As soon as practicable, but not later than the 10th working day after the university receives an appeal, the chancellor or president will issue a written determination stating which of the records that are the subject of the appeal will be disclosed and which records will not be disclosed. The written determination must specify the legal grounds and factual basis for denying access to any records that are not being disclosed specify that the decision constitutes a final university decision, and advise that the requester may seek judicial review of the denial by appealing the denial in superior court.

B. The chancellor or president may extend the 10-working day period for a period not to exceed 30 working days upon written request from the requester, or by sending a written notice to the requester within the 10-working day period.

C. The chancellor or president may delegate authority and duties under this section to any full-time employee of the university not involved in the denial and not subordinate to the person responsible for the denial. The person delegated this authority may not further delegate such authority. (04-15-04)