

Risk Management & Safety Presents:

Subpoena Training

Last Revised 02/02/12



Subpoena Basics



- Don't be afraid!
- Take your time and look at the subpoena.
- Do what's in your comfort level.
- Ask for assistance from your supervisor or RM&S.

More Subpoena Basics



- ***Who*** will be served?
- ***Where*** will it be served?
- ***When*** will it be served?
- ***Why*** will it be served?
- ***How*** will it be served?

Who will be served?

Anyone

Ask yourself who SHOULD be accepting the subpoena?

Records or Employee Appearance:

Subpoena's should be served to Risk Management & Safety.

Named Person:

Subpoena's must be served to the individual named in the subpoena. Do not accept on behalf of another person.

(Exception: University Police Officers)

Where will it be served?

Anywhere

Where SHOULD it be served?

Records or Employee Appearance:

Subpoena's should be served to Risk Management & Safety at
333 Twin Oaks Valley Road, Craven 4700

Contact: Janice Plemons (x4505) or Bill Thomas (x4502)

Named Person:

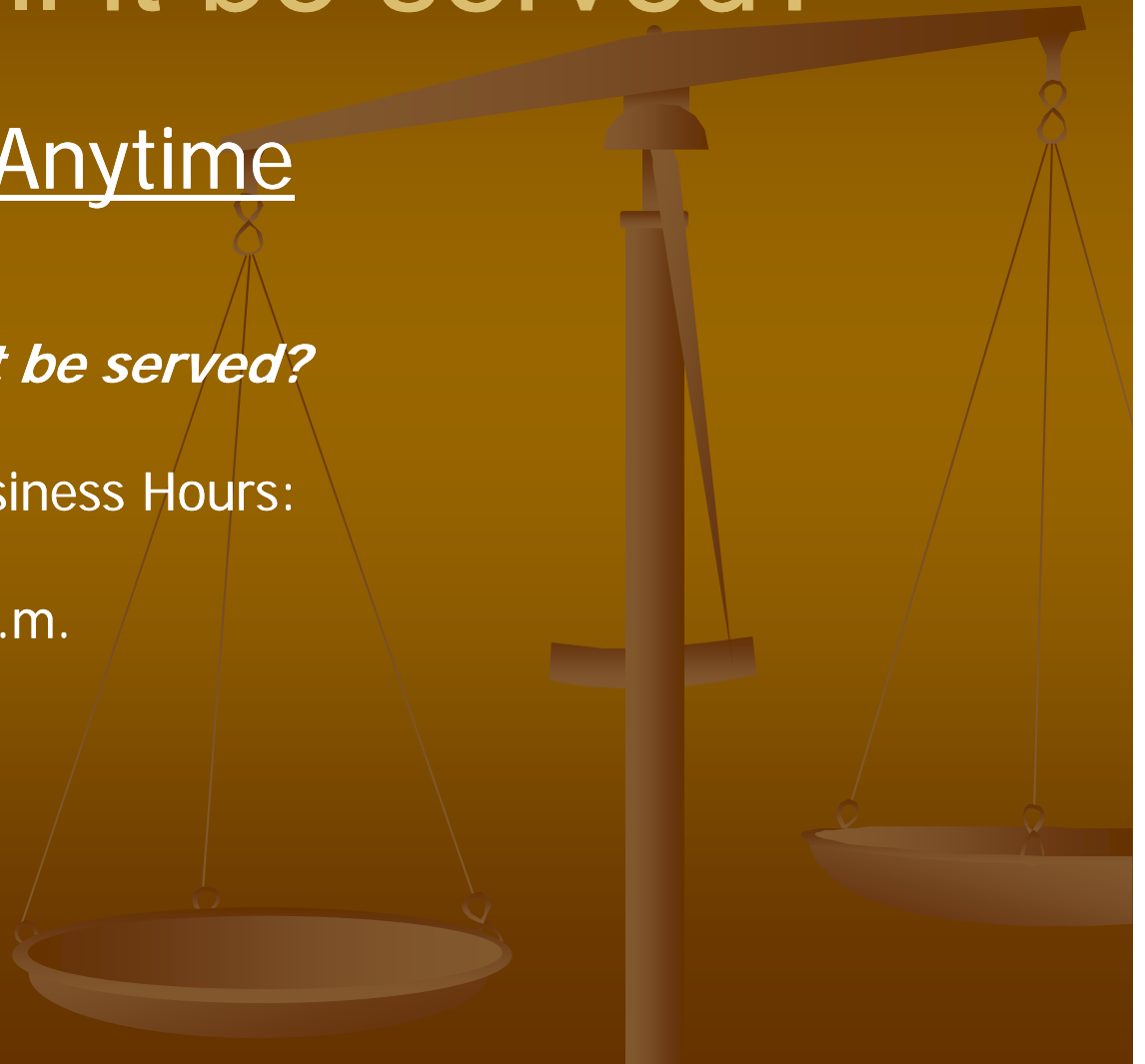
Subpoena's should be served to the individual named in the subpoena. If the server does not know the exact location, please refer them to RM&S. Do not send them to the individual.

When will it be served?

Anytime

When SHOULD it be served?

During Regular Business Hours:
Monday-Friday
8:00 a.m. – 5:00 p.m.



Why will it be served?



Any Reason Found Valid by a Court

Why will it be served?

"...[To] command a person or entity to attend at a particular time and place to testify as a witness (at a deposition, trial, or other hearing), and/or produce documents or other tangible objects in a legal proceeding."

--OGC Subpoena Handbook

How will it be served?

Any Way!

How SHOULD it be served?

Proper service requires personal delivery. Delivery by fax or mail is not considered proper service.

Don't be alarmed if they leave it on your desk and walk away. A process server's goal is to get it delivered. They don't care who accepts it. Make sure you deliver it to RM&S immediately. This information is confidential and should not be sent through intercampus mail.

Process Server, Public Records Request, or Background Investigator?



Subpoena's

Are a time-sensitive, legal document and are required to be properly served. (15 calendar days to produce records or appear in court)

Public Records Act (PRA)

Also time-sensitive. Is a written or verbal request from the public. Does not require legal service. (10 calendar days to initially respond)

Background Checks (FBI, IRS, etc.)

Sometimes investigators from government agencies come to campus to collect background information (i.e. employment reference checks). They will present a badge identifying themselves along with a signed release from the individual whom they are seeking records for. These records are usually handled through Registration & Records (students) or HREO (employees).

What does a subpoena look like?



How do I know if it's a subpoena request for records or employee appearance?

The subpoena will specify exactly what they're looking for. If the request is for records, refer to "attachment 3" toward the back of the subpoena packet for information on the specific records being sought.

ATTORNEY OR PARTY WITHOUT ATTORNEY	TELEPHONE NO.:	RECEIVED SEP 18 2003 FOR REPLY USE ONLY RISK MANAGEMENT AND SAFETY
ATTORNEY FOR (Name): NAME OF COURT: SUPERIOR COURT STATE OF CALIFORNIA STREET ADDRESS: COUNTY OF MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: PLAINTIFF/PETITIONER		
DEFENDANT/RESPONDENT		Ronsin Photocopy, Inc. (909) 594-5995 PLEASE CALL WHEN RECORDS ARE AVAILABLE FOR COPYING Lucy EXT. 138
DEPOSITION SUBPOENA For Production of Business Records		CASE NUMBER:

THE PEOPLE OF THE STATE OF CALIFORNIA, TO: CUSTODIAN OF RECORDS:
 CALIFORNIA STATE UNIVERSITY SAN MARCOS

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): RONSIN PHOTOCOPY, INC.
 On: 9/29/2003 At: 9:00 AM
 Location: 215 S. LEMON CREEK DR., WALNUT, CALIFORNIA 91789 (909)594-5995

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined by the court.
 - c. by making the original business records available for copying at the witness's address by the attorney's representative during normal business hours.
2. The records are to be produced by the deposition officer on or before the date and time stated above, or 15 days after service of this subpoena, if available or copying them, and postage, if applicable, to be accompanied by an affidavit of the custodian of records.
3. The records to be produced are described in Attachment 3.

SEE ATTACHMENT 3

Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA UNDER SECTION 37.6 OF THE CODE OF CIVIL PROCEDURE SECTION 37.6, AND YOU HAVE BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued:

/s/

(SIGNATURE OF PERSON ISSUING SUBPOENA)

ATTORNEY AT LAW

(TYPE OR PRINT NAME)

(TITLE)

(Proof of service on reverse)

DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

Form Adopted for Mandatory Use
 Judicial Council of California
 982(a)(15.2)(Rev. January 1, 2000)

Code of Civil Procedure,
 § 2020, 2025,
 Government Code, § 6807.1

WORK ORDER NUMBER:

Attachment 3

CASE CAPTION:

VS

ATTACHMENT 3:

THE RECORDS BEING REQUESTED INCLUDE ANY AND ALL, BUT NOT LIMITED TO, EMPLOYMENT RECORDS, WAGE RECORDS, PERSONNEL RECORDS, ATTENDANCE RECORDS, EMPLOYMENT APPLICATIONS, W-2'S, W-4'S, RESUMES, PAYROLL RECORDS AND ANY OTHER RECORDS, PERTAINING TO THE EMPLOYMENT OF REGARDS OF DATE.

DOB: SS#:

AKA:

THE PEOPLE OF THE STATE OF CALIFORNIA, TO: CUSTODIAN OF RECORDS:
 CALIFORNIA STATE UNIVERSITY SAN MARCOS

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): RONSIN PHOTOCOPY, INC.
 On: 9/29/2003 At: 9:00 AM
 Location: 215 S. LEMON CREEK DR., WALNUT, CALIFORNIA 91789 (909)594-5995

What does a PRA look like?



PRA's usually come to us by letter or email but can also be a verbal request. Please send these requests to RM&S **immediately** as the campus has minimal legal response time. Untimely response can result in a legal penalty.

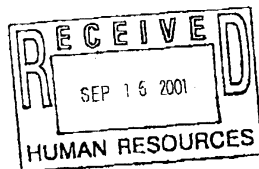
You may also be visited by someone from outside of the University asking for a copy of your office records (ex: book seller, reporter). Please refer these requests to RM&S. All requests must follow the campus PRA protocol.

002 10:08am From:CSU CO-ER
McClain-To handle.
West/Helwick/Bentley-Adler
hurlesq@hourmail.com

5628514880
ATTORNEY AT LAW
941 WEST HEDDING STREET
SAN JOSE, CALIFORNIA 95126
408 241 4411

FAX 408 260 9670

September 12, 2002



Hon. Charles B. Reed, Chancellor
THE CALIFORNIA STATE UNIVERSITY
401 Golden Shore
Long Beach, California 90802

Re: Public records request

Public Records
Request

Dear Dr. Reed:

This is a request for copies of public records under the California Public Records Act, Gov. Code § 6250 et seq. If any specific guidelines apply, or if any fee for copying is required pursuant to Gov. Code §§ 6256 and 6257, please advise me without delay. If you deny public access to any of the requested records pursuant to Gov. Code §§ 6254 or 6255, please state the basis for such denial. Copies of the following public records are requested:

1. For each campus of the California State University System, documents identifying each employment classification under which any employee(s) performed purchasing functions on that campus during the period from January 1, 2000 until the present.
2. For each campus of the California State University System, documents describing the duties and responsibilities of each employment classification under which any employee(s) performed purchasing functions on that campus during the period from January 1, 2000 until the present.
3. For each campus of the California State University System, documents indicating the range of annual compensation amounts paid to employees who performed purchasing functions under each employment classification in use on that campus during the period from January 1, 2000 until the present.

2002 10:08am From:CSU CO-ER
HON. CHARLES B. REED, CHANCELLOR
THE CALIFORNIA STATE UNIVERSITY
09/12/02
Page 2

5628514880

T-272 P.004/007 F.166

4. For each campus of the California State University System, organization charts indicating the organizational relationships of each classification under which employees performed purchasing functions on that campus during the period from January 1, 2000 until the present.

Thanks for your cooperation and prompt attention to this matter.

Very truly yours,

Michael Hurley

Certified Mail No.
7000 1670 0006 2721 6654

What does RM&S do?



- Reviews and accepts the subpoena as appropriate.
- Logs the subpoena.
- Consults with General Counsel as necessary.
- Requests the records from the appropriate "office(s) of record".
- Negotiates a change in terms as necessary and appropriate.
- Sends FERPA notification. As required by FERPA, requests for academic records requires a legal notification to the student. FERPA requires that we make a "reasonable attempt" to notify the student that academic records have been requested.
- Sends legal responses and notifications to parties involved.
- Coordinates the copying and/or pick up of records with the legal copy service.

Family Educational Rights & Privacy Act (FERPA)




What is FERPA?

FERPA is a Federal law that applies to educational agencies and institutions that receive funding under a program administered by the U. S. Department of Education. The statute is found at 20 U.S.C. § 1232g and the Department's regulations are found at 34 CFR Part 99.

Under FERPA, schools must generally afford students who are 18 years or over, or attending a postsecondary institution:

- Access to their education records
- An opportunity to seek to have the records amended
- Some control over the disclosure of information from the records.

What do you do when we request records from you?

- RM&S will email/fax the request to the department supervisor.
 - The department will verify if records are available for the named individual.
 - If records are identified by the department, they will either make original records available or provide copied records (as directed by the subpoena).
 - Provide department copies (originals or photocopies, as directed) in a sealed envelope. Label the envelope and hand-carry the records to RM&S. These records are confidential. Please **do not** send them through intercampus mail.
- 

Do you want to know more?



Campus Policy

<http://www.csusm.edu/policies/active/documents/subpoenas.html>

Office of General Counsel – Subpoena Handbook

http://www.calstate.edu/GC/Docs/Subpoena_HB_with_Exhibits.doc

State of California – Public Records Act

<http://www.privacy.ca.gov/pract.htm>

Family Educational Rights & Privacy Act (FERPA)

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/students.html>

Contact Information

Risk Management & Safety



333 Twin Oaks Valley Road
Craven 4700
San Marcos, CA 92096-0001



Fax 760/750-3396



Janice Plemons 760/750-4505
Bill Thomas 760/750-4502



riskmanagement@csusm.edu

Thank you for
participating!

