

SCHRA Public Records Policy

Purpose:

In Tenn. Code Ann. Section 10-7-505(d), the Tennessee General Assembly declares that the Tennessee Public Records Act (hereinafter "TPRA") "shall be broadly construed so as to give the fullest possible access to public records." Courts in Tennessee have opined that unless there is a clear exception provided in law, all records of a governmental entity are to be open to citizens for inspection and/or copying. However, these Courts have also acknowledged the ability of Executive Director/Designees to adopt reasonable rules governing the manner in which records request are to be made and fulfilled.

Definitions:

Executive Director/Designee: the office, official or employee lawfully responsible for the direct custody and care of a public record and is not necessarily the original preparer or producer of the record. A governmental entity may have more than one Executive Director/Designee.

Public records: defined in Tenn. Code Ann. Section 10-7-503(a)(1): As used in this part and Title 8, Chapter 4, Part 6, "public record or records" or "state record or records" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

Redacted record: a public record otherwise open for public inspection from which protected information has been removed or made obscured prior to release or inspection.

Requestor: a Tennessee citizen requesting access to or a copy of a public record.

Governmental entity or agency: this includes but is not limited to the state, any political subdivision, agency, institution, county, municipality, city or sub-entity. Note, certain associations, non-profits, and private entities are also subject to the TPRA.

Procedures:

A. *Generally.*

1. Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee in the office of record during business hours. Requests to inspect a record may, but are not required to, be in writing. Requests for copies of records must be made in writing. Persons requesting to inspect or copy records must show identification of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.), and are requested/required to complete a Request to Inspect/Copy Public Records form which can be downloaded from the link provided. The Executive Director or Designee will maintain the original copy of a completed form to request/inspect records; copies of the form will be sent to Directors.

2. Requests to inspect/copy records must be made to the Executive Director/Designee, and must be sufficiently detailed to enable the Executive Director/Designee to identify the specific records to be located or copied. When the Executive Director/Designee is unclear as to the records being requested, the Executive Director/Designee should contact the requestor in an effort to clarify and/or narrow the request. If, after attempting to do so, the Executive Director/Designee is still unable to determine what is being requested, the request should be denied based upon the requestor's failure to sufficiently identify the requested records. A Records Request Denial Letter should be sent to the requestor.

3. The Agency is not required to create records or compile information.

B. Form or Format of Record to be Inspected/Copied. The public records laws require that actual records be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the Executive Director/Designee may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws. In the event the records include confidential information, copies of the record will be made and the confidential information will be redacted (stricken) before being made available for inspection or copying.

C. Custody Not Relinquished. Custody of the original record is not to be relinquished. The person requesting to inspect the record must inspect the records in the presence of the

Executive Director/Designee. If the request is for copies of the record(s), the Agency will provide the copied information.

D. *Time Required to Produce Records.* If the record cannot be produced within seven (7) business days, e.g., they are filed in archives, being used for official business or it will take additional time to redact (obscure for security purposes) confidential information from the record, the requestor shall be advised when the record(s) will be available. All efforts will be made to provide the records within a reasonable period of time. A **Records Production Letter** using this form must be provided. If the request will be denied, a **Records Request Denial Letter** must be sent within seven (7) business days.

E. *Media Requests.* Requests to inspect/copy records submitted by a representative of the news media (newspaper, radio, television, magazine, etc.) must be made through the Executive Director's office, which will arrange for the inspection or copying of the records.

F. *Other Offices to be Notified.* Grantors/Department Directors may be required to assist in answering questions, coordinating release of any additional information, and ensuring correct understanding of the records. Further, these offices will be provided copies of inspected and/or copied records upon request or whenever the Executive Director/Designee believes the circumstances warrant.

G. *Inspection of Employee Records.*

1. Personnel records of all staff, including former employees, are subject to inspection/copying under Tennessee's Public Records Law, unless designated as confidential by statute. Persons requesting to inspect/copy personnel records are requested to complete the **Request to Inspect/Copy Public Records form** and must show identification of Tennessee citizenship through a government-issued photo identification card. All confidential information must be redacted before inspection/copying. The current employee will be notified that such a request was made and who made the request.

2. Medical records are maintained separately from personnel records and are considered to be confidential. Examples of medical records include, but are not limited to, sick leave documentation and employee assistance program (EAP) files.

H. *Question if Document is Open Record.* If it cannot be readily determined whether or not the Tennessee Public Records Law covers a requested document, the Executive Director/Designee shall refer the matter to the Agency Legal Counsel.

I. *Agency Departments*. This procedure shall not apply to Agency departments that request to inspect and/or receive copies of records for Agency business purposes or records of employees who report to that department. Notwithstanding, however, the Executive Director/Designee may require the requesting department to certify the business purpose of the request.

IV. COPYING OF PUBLIC RECORDS

A. Upon request, the Agency will provide copies of public records at the requestor's expense. When a request for copies is received, the Executive Director/Designee should not relinquish the records. Confidential information shall always be redacted before copies are provided.

B. It is the responsibility of the Executive Director/Designee to make copies or arrange for copies to be made as well as to determine copy fees and charges, as stated below. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor prior to producing the requested copies. Payment of fees and charges are to be made in advance to the Receptionist and the requestor shall present the receipt to the Executive Director/Designee. Payment will be credited to the Agency Fund Balance account or the account of the department responsible for preparing the records.

1. Letters, manuscripts, maps, books, blueprints, etc.

- a. The requestor shall be required to complete a Request to Inspect/Copy Public Records form identifying the specific record(s) to be copied. The request form, along with any other documents relevant to the request, shall be maintained in the Executive Director/Designee's file.
- b. If available to do so, the Executive Director/Designee may immediately make the requested copies and provide the documents to the requestor, so long as the requestor has paid for the charges according to the schedule of Fees/Charges listed below.
- c. The Executive Director/Designee shall advise the requestor that payment for the copies is to be made to the Receptionist. Upon presentation of an official Agency receipt to the Executive Director/Designee, the requested copies will then be made.
- d. All efforts will be made to make the copies within a reasonable period of time. If the Executive Director/Designee is not immediately available to make the

copies, the requestor shall be advised that he/she will be notified when and where the copies will be available for pickup and where payment for the copies may be made. If the records will not be available within seven (7) business days of the date of the request, the requestor shall be provided a **Records Production Letter**.

2. Tape Recordings, computer tapes, and other electronic documents.

a. The requestor shall be required to complete a **Request to Inspect/Copy Public Records form** identifying the specific record(s) to be copied. The request form, along with any other documents relevant to the request, shall be maintained in the Executive Director/Designee's file.

b. If there is not an established fee rate for the type of reproduction (copy) to be made, the Executive Director/Designee should expeditiously ascertain the cost for duplication and notify the requestor of the charge. Payment for the charge shall be made in advance to the Receptionist.

c. Upon payment by the requestor, the record should be duplicated and arrangements made for pickup by the requestor.

3. Copy Format

a. Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the Executive Director/Designee.

b. Information on computer tapes and other electronic documents should be copied in a printed format whenever possible. An actual reproduction of the computer tape, etc. should not be provided.

c. No records shall be produced or copied in a form to further a commercial, business, or similar purpose, for example, mailing labels, envelopes, lists of telephone numbers, special format on computer disk, etc.

d. If the requested records exist electronically, but not in the format requested; or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the Executive Director/Designee shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or

modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.

e. Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records.

f. If electronic records are provided, they will be produced in **read-only** format.

4. Fees and Charges.

a. No fees or charges may be imposed for inspection of records.

b. An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the **Request to Inspect/Copy Public Records form**.

c. Fees.

(1) If copies of the document are sought, the price is 15 cents per page (black and white), 50 cents per page (color) for standard letter and legal pages, plus the actual cost of labor and/or programming to produce the copy, after the first hour. The price per copy for larger documents (such as blueprints and other specialized documents) is the actual cost. Documentation establishing the amount of the actual cost should be maintained.

(2) If the determined format of the copy is other than paper photocopy, the requestor shall be charged a reasonable fee. Under special circumstances and depending on how best to reproduce/copy the records, the Executive Director/Designee, with the approval of Agency Legal Counsel, may negotiate with the requestor the fee to be paid. Documentation establishing the basis of the fee should be maintained.

(3) Any actual delivery costs incurred by the Agency, such as postal fees, will be added to the final bill for records.

d. Labor/Programming Charges.

(1) Labor is the time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the record. Programming is the time reasonably necessary to extract information requested from a database. All labor and programming charges, after the first hour, must be paid by the requestor to obtain a copy of the record. A receipt upon payment of the fees and charges will be provided.

(2) In calculating the charges for labor and/or programming, the Executive Director/Designee shall determine the number of hours each employee spent producing a request. The first hour, which is not charged to the requestor, shall be subtracted from the number of hours the highest paid employee(s) spent producing the request. The remaining hours are then totaled for each employee, and multiplied by that employee's hourly wage. The results are then added together for the total amount of labor that will be charged. The form to record and calculate the labor cost is located at Calculation of Labor Costs. This form is used to tally these charges, and the totals are provided to the requestor on the Request to Inspect/Copy Public Records form.

(3) If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format, or it is necessary to access back up files, the requesting party shall be charged the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing back up files.

e. If the total amount of fees, labor/programming charges, and postage is less than \$5.00, the cost will be waived.

V. DUTIES OF THE EXECUTIVE DIRECTOR/DESIGNEE

In responding to requests to inspect or copy records, it is anticipated that the Executive Director/Designee will be responsible for the following:

A. Receive the request. If the request is for copies, it must be in writing and the Request to Inspect/Copy Public Records form must be used.

B. Verify Tennessee citizenship. The identification produced should be copied and the copy maintained with the original request form.

C. If the Executive Director/Designee determines that he/she is not the appropriate custodian of record, direct the requestor to the correct Executive Director/Designee, if possible. If the request is from the news media, the requestor must be directed to the Agency Legal Counsel.

D. Notify the Agency Legal Counsel of the request.

E. Coordinate compiling the requested records.

F. If the request is to inspect records, arrange a location for the requestor to do so. Inspection must be made in the presence of the Executive Director/Designee.

G. If the request is for copies, provide the requestor with an itemized estimate of the fees and charges using the Request to Inspect/Copy Public Records form, and require payment for such. The receipt should be maintained with the request to inspect/copy. Once payment is received, direct that copies be made.

H. Ensure that the appropriate redactions of confidential information are made whether the request is for inspection or copies.

I. When the copies are available, determine the final amount of the fees and charges using the Labor Cost form, and provide the totals on the Request to Inspect/Copy Public Records form. Provide the requestor with the actual cost amounts and specify that payment in full is required prior to release of the copies.

J. Designate the appropriate account number(s) on the receipt for distribution of the funds.

K. Provide appropriate correspondence to the requestor. Within 7 business days of receipt of a request, the Executive Director/Designee must:

1. Make the records available for inspection or provide the requested copies;
2. Deny the request to inspect or copy using the **Records Request Denial Letter**, indicating the basis for the denial; or,



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3. If the records cannot be made available within seven (7) business days of the request, send the **Records Production Letter** indicating when the requested records or copies of the records will be available.

L. Maintain documentation regarding the request to include, as appropriate:

1. The Request to Inspect/Copy Public Records form.
2. Proof of Tennessee citizenship.
3. Labor Cost form(s).
4. Copies of receipts for payment of fees and charges.
5. Correspondence with requestor.