

**RULES
OF
THE DEPARTMENT OF EDUCATION**

**CHAPTER 0520-12-03
PUBLIC RECORDS**

TABLE OF CONTENTS

0520-12-03-.01	Definitions	0520-12-03-.04	Inspection of Records
0520-12-03-.02	Making Public Records Requests	0520-12-03-.05	Copies of Records
0520-12-03-.03	Responding to Public Records Requests	0520-12-03-.06	Fees and Charges

0520-12-03-.01 DEFINITIONS.

- (1) "Department" means the Tennessee Department of Education.
- (2) "Office of Open Records Counsel" or "OORC" means the office established under T.C.A. §§ 8-4-601, et seq., within the Tennessee Comptroller of the Treasury.
- (3) "Public 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 entity.
- (4) "Public Records Request Coordinator" or "PRRC" means any individual within a governmental entity whose role it is to ensure that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with T.C.A. § 10-7-503(a)(2)(B). The PRRC may also be a records custodian.
- (5) "Records Custodian" means any office, official, or employee of any governmental entity lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.
- (6) "Requestor" means a Tennessee citizen seeking access to a public record, whether it is for inspection or duplication.
- (7) "Tennessee Public Records Act" or "TPRA" means the state law codified in T.C.A. §§ 10-7-503, et seq., regarding access to public records.

Authority: T.C.A. §§ 10-7-503 and 49-1-201. **Administrative History:** Original rules filed April 9, 2019; effective July 8, 2019.

0520-12-03-.02 MAKING PUBLIC RECORDS REQUESTS.

- (1) Public record requests shall be made to the PRRC in order to ensure public records requests are routed to the appropriate Records Custodian and fulfilled in a timely manner.
- (2) The designated PRRC for the Department is the Deputy Director of Communications; provided, however, that the responsibilities of the PRRC under this rule may be delegated to one or more employees under the supervision of the PRRC. The PRRC may be contacted at:

Public Records Request Coordinator
Tennessee Department of Education
710 James Robertson Parkway

(Rule 0520-12-03-.02, continued)

9th Floor, Andrew Johnson Tower
 Nashville, Tennessee 37243
 Telephone: (615) 741-8457
 Email: TDOE.OpenRecords@tn.gov

- (3) Requests only for inspection of public records may be made orally or in writing to the PRRC at the PRRC's mailing address, email address, or phone number. The PRRC shall, however, request a U.S. mail address or email address from the Requestor in order to provide any written communication required under the TPRA.
- (4) Requests for copies, or requests for inspection and copies, shall be made in writing and may be made to the PRRC at the mailing address or email address provided.
- (5) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or a Tennessee photo ID card is required as a condition to inspect or receive copies of public records.

Authority: T.C.A. §§ 10-7-503 and 49-1-201. **Administrative History:** Original rules filed April 9, 2019; effective July 8, 2019.

0520-12-03-.03 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (1) Public Records Request Coordinator
 - (a) The PRRC shall review public record requests received by the Department and make an initial determination of the following:
 1. If the Requestor provided evidence of Tennessee citizenship;
 2. If the records requested are described with sufficient specificity to identify them; and
 3. If the Department is the custodian of the records.
 - (b) The PRRC shall acknowledge receipt of the request and take at least one (1) of the following actions, as appropriate:
 1. Advise the Requestor of:
 - (i) Any determinations regarding proof of Tennessee citizenship;
 - (ii) Applicable fees; or
 - (iii) Aggregation of multiple or frequent requests.
 2. Deny the request in writing, providing the appropriate ground such as one of the following:
 - (i) The Requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (ii) The request lacks specificity or needs clarification;
 - (iii) The records requested are not subject to inspection under state or federal law;

(Rule 0520-12-03-.03, continued)

- (iv) The Department is not the custodian of the requested records; or
 - (v) The requested records do not exist;
 - 3. Contact the Requestor to see if the request can be narrowed or clarified;
 - 4. Forward the records request to the appropriate Records Custodian in the Department with notice of the date the request was received and the deadline for when a response to the request is due; or
 - 5. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the Requestor of the correct governmental entity and PRRC for that entity, if known.
- (2) Records Custodian
 - (a) Upon receiving a public records request, a Records Custodian shall promptly make requested public records available in accordance with T.C.A. § 10-7-503, if the requested records are not exempt from disclosure. If the Records Custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, counsel, or the OORC.
 - (b) If a Records Custodian determines that it is not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then the Records Custodian or PRRC shall, within seven (7) business days from the Records Custodian's receipt of the request, send the Requestor a completed public records request response.
 - (c) If a Records Custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the Records Custodian or PRRC shall, within seven (7) business days from the from the Records Custodian's receipt of the request, send the Requestor a public records request response informing the Requestor that the production of records will be in segments and that a records production schedule will be provided as expeditiously as practicable.
 - (d) If a Records Custodian determines that a public records request should be denied, the Records Custodian or PRRC shall, within seven (7) business days from the from the Records Custodian's receipt of the request, deny the request in writing and shall include the basis for denial.
 - (e) If a Records Custodian discovers records responsive to a public records request were omitted in a production, the Records Custodian or PRRC shall contact the Requestor concerning the omission and produce the records as quickly as practicable.
- (3) Redaction
 - (a) If a record contains confidential information or information that is not open for public inspection, the Records Custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the Records Custodian shall coordinate with counsel or other appropriate parties regarding review and redaction of records. The Records Custodian and the PRRC may also consult with the OORC or with the Office of Attorney General and Reporter.

(Rule 0520-12-03-.03, continued)

- (b) Whenever a redacted record is provided, a Records Custodian or PRRC shall provide the Requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

Authority: T.C.A. §§ 10-7-503 and 49-1-201. **Administrative History:** Original rules filed April 9, 2019; effective July 8, 2019.

0520-12-03-.04 INSPECTION OF RECORDS.

- (1) There shall be no charge to view a public record that are subject to inspection under the TPRA.
- (2) Inspection of records shall take place at the offices of the Tennessee Department of Education, 710 James Robertson Parkway, 9th Floor, Andrew Johnson Tower, Nashville, Tennessee 37243. The location for inspection of records within the offices of the Tennessee Department of Education shall be determined by either the PRRC or the Records Custodian.
- (3) Appointments for inspection of public records that cannot be promptly made available for inspection are required and may be scheduled by contacting the PRRC at TDOE.OpenRecords@tn.gov or 615-741-8457. Under reasonable circumstances, the PRRC or a Records Custodian may require inspection of records at an alternate location.
- (4) The TPRA grants Tennessee citizens the right to access open public records that exist at the time of the request. Nothing in the TPRA or these rules shall be construed as requiring a Records Custodian or the PRRC to sort through files to compile information or to create or recreate a record that does not exist.

Authority: T.C.A. §§ 10-7-503 and 49-1-201. **Administrative History:** Original rules filed April 9, 2019; effective July 8, 2019.

0520-12-03-.05 COPIES OF RECORDS.

- (1) A Records Custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.
- (2) Copies will be available for pickup at the Tennessee Department of Education, 710 James Robertson Parkway, 9th Floor, Andrew Johnson Tower, Nashville, Tennessee 37243.
- (3) Upon payment for postage, copies will be delivered to the Requestor's home address by the United States Postal Service.
- (4) A Requestor may be allowed to make copies of records that total twenty-five (25) pages or less with personal equipment at the Tennessee Department of Education.

Authority: T.C.A. §§ 10-7-503 and 49-1-201. **Administrative History:** Original rules filed April 9, 2019; effective July 8, 2019.

0520-12-03-.06 FEES AND CHARGES.

- (1) Prior to producing copies of records, a Records Custodian or the PRRC shall provide a Requestor with an itemized estimate of the fees and charges, to the extent possible.
- (2) Payment in advance may be required before producing requested records if the estimated cost exceeds \$100.00.
- (3) When fees for copies and labor do not exceed \$10.00, the fees shall be waived.

(Rule 0520-12-03-.06, continued)

- (4) Fees and charges for copies are as follows:
 - (a) 15 cents (\$0.15) per page for 8 ½" x 11" (letter) or 8 ½" x 14" (legal) black and white copies.
 - (b) 50 cents (\$0.50) per page for 8 ½" x 11" (letter) or 8 ½" x 14" (legal) color copies.
 - (c) Labor charges for the time, in hours, to produce copies of records whenever the time exceeds 1 hour. Labor charges shall be calculated by multiplying the base hourly wage rate of each employee by the time each employee spends in locating, retrieving, reviewing, redacting, and reproducing records, minus the first hour of the most highly paid employee.
 - (d) The actual costs assessed by a vendor, if an outside vendor is used.
- (5) If a public record is maintained in color but can be produced in black and white, the Records Custodian or PRRC shall advise the Requestor that the record can be produced in color if the Requestor is willing to pay a charge higher than that of a black and white copy.
- (6) Payment is to be made by cashier's check or money order payable to the Tennessee Department of Education.
- (7) The Department will aggregate record requests when more than four (4) requests are received in a calendar month, either from a single individual or a group of individuals deemed working in concert, in accordance with the "Frequent and Multiple Request Policy" promulgated by the OORC. The PRRC shall notify a Requestor if they have been deemed to be working in concert and shall notify the Requestor of their right to appeal the decision to the OORC.

Authority: T.C.A. §§ 10-7-503 and 49-1-201. **Administrative History:** Original rules filed April 9, 2019; effective July 8, 2019.