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# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

**Agency/Board/Commission:** Tennessee Department of Veterans Services  
**Division:** Intergovernmental and External Relations  
**Contact Person:** John D. Cressman, Legislative Liaison and Department Counsel  
**Address:** 312 Rosa L. Parks Avenue, 13<sup>th</sup> Floor, Nashville, TN 37243  
**Phone:** Nashville, TN 37243  
**Email:** John.Cressman@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

**ADA Contact:** John D. Cressman  
**Address:** 312 Rosa L. Parks Avenue, 13<sup>th</sup> Floor, Nashville, TN 37243  
**Phone:** 615-253-5792  
**Email:** John.Cressman@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Conference Room E (3 <sup>rd</sup> Floor)
Address 2:	WRS Tennessee Tower, 312 Rosa L. Parks Avenue, 3 <sup>rd</sup> Floor
City:	Nashville, TN
Zip:	37243
Hearing Date:	January 25, 2019
Hearing Time:	10:00 A.M. CST/CDT

**Additional Hearing Information:**

Please allow sufficient time to make it through security when entering the building.

Any written comments from the public concerning this rulemaking activity must be sent to [TDVS.PublicRecords@tn.gov](mailto:TDVS.PublicRecords@tn.gov) and are due by close of business (4:30pm CST/CDT) on January 25, 2019.

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
1735-01-01	Public Records Requests
<b>Rule Number</b>	<b>Rule Title</b>
1735-01-01-.01	Purpose
1735-01-01-.02	Definitions
1735-01-01-.03	General Information
1735-01-01-.04	Requesting Access to Public Records
1735-01-01-.05	Responding to Public Records Requests
1735-01-01-.06	Inspection of Records
1735-01-01-.07	Copies of Records
1735-01-01-.08	Fees, Charges, and Procedures for Billing and Payment
1735-01-01-.09	Public Records Request Form
1735-01-01-.10	Public Records Request Response Form

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to [http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines\\_September2016.pdf](http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf).

Chapter 1735-01-01  
Public Records Requests

Chapter 1735-01-01 Public Records Requests is a new rule.

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

Chapter 1735-01-01  
Public Records Requests

New Rule

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1735-01-01-.01 Purpose

The purpose of these rules is to establish procedures concerning public records requests received by the Tennessee Department of Veterans Services, and to enable access to public records as provided under the Tennessee Public Records Act. The Tennessee Public Records Act provides that all state, county, and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. See Tenn. Code Ann. §10-7-503(a)(2)(A). Accordingly, the public records of the Tennessee Department of Veterans Services are presumed to be open for inspection unless otherwise provided by law.

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

1735-01-01-.02 Definitions

- (1) "Governmental Entity" means the State of Tennessee, or any county, municipality, city or other political subdivision of the State of Tennessee.
- (2) "Office of Open Records Counsel" or "OORC" means the office established pursuant to Tenn. Code Ann. §§ 8-4-601 et seq., or any successor office or entity.
- (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 government agency, not otherwise protected by law or exempt from disclosure under the Tennessee Public Records Act.
- (4) "Public Records Request Coordinator" or "PRRC" means the individual, or individuals, designated in Rule 1735-01-01-.05 who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the Tennessee Public Records Act. The Public Records Request Coordinator may also be a records custodian.

- (5) "Records Custodian" means the office, official, or employee 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 the citizen seeking access to a public record, whether it is for inspection or duplication.
- (7) "TDVS" or the "Department" means the Tennessee Department of Veterans Services.
- (8) "TPRA" means the Tennessee Public Records Act, found in Title 10, Chapter 7 of the Tennessee Code Annotated.

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

#### 1735-01-01-.03 General Information

- (1) The TPRA provides that all state, county, and municipal records shall, at all times during business hours, be open for personal inspection by a citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state or federal law. Accordingly, the public records of the Tennessee Department of Veterans Services are presumed to be open for inspection unless otherwise provided by law.
- (2) Personnel of the Tennessee Department of Veterans Services shall timely and efficiently provide access and assistance to persons requesting to inspect or receive copies of public records. No provisions of this Rule shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Tennessee Department of Veterans Services, shall be protected as provided by current law. Concerns about this Rule should be addressed to the PRRC for the Tennessee Department of Veterans Services.
- (3) This Rule shall be reviewed annually by the PRRC.
- (4) This Rule shall be applied consistently throughout the various offices and divisions of the Tennessee Department of Veterans Services.

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

#### 1735-01-01-.04 Requesting Access to Public Records

- (1) Public records 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. Any employee of TDVS who receives what they believe may be a public records request, formal or informal, shall immediately notify the PRRC.
- (2) Requests for inspection are not required to be in writing. The PRRC should request a mailing or email address from the requestor for providing any written communication required under the TPRA.
- (3) Requests for inspection may be made orally or in writing using the Public Records Request Form at the Tennessee Department of Veterans Services, located at 312 Rosa L. Parks Avenue, 13th Floor, Nashville, TN 37243, by phone at 615-741-2931, or by email at [TDVS.PublicRecords@tn.gov](mailto:TDVS.PublicRecords@tn.gov).
- (4) Requests for copies, or requests for inspection and copies, of public records shall be made in writing. Requestors may use the the Public Records Request Form found in Rule 1735-01-01-.09 or any other written form of communication, such as mail or electronic mail. The request should be sent to the Tennessee Department of Veterans Services, located at 312 Rosa L. Parks Avenue, 13th Floor, Nashville, TN 37243, or by email at [TDVS.PublicRecords@tn.gov](mailto:TDVS.PublicRecords@tn.gov).

- (5) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license, or alternative acceptable form of identification, may be required as a condition to inspect or receive copies of public records.

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

1735-01-01-.05 Responding to Public Records Requests

(1) Public Records Request Coordinator

(a) The PRRC shall review public records requests and make an initial determination of the following:

1. If the requestor provided evidence of Tennessee citizenship, if required, pursuant to Rule 1735-01-01-.04;
2. If the records requested are described with sufficient specificity to identify them;
3. If TDVS has custody of the requested records and, if so, the name of the respective records custodian; and
4. If the records requested, or any of their contents, are protected by privacy laws or are in any way confidential or privileged under federal or state law.

(b) The PRRC shall acknowledge receipt of the request and take any of the following appropriate actions:

1. Advise the requestor of this Rule and the elections made regarding:
  - (i) Proof of Tennessee citizenship pursuant to Rule 1735-01-01-.04;
  - (ii) Any forms required for copies;
  - (iii) Fees, labor threshold, and waivers, if applicable; and
  - (iv) Aggregation of multiple or frequent requests.
2. If appropriate, deny the request in writing and provide the appropriate ground for the denial, which may include but is not limited to any of the following:
  - (i) The requestor is not, or has not presented evidence of being, a Tennessee citizen or the next of kin to a deceased Tennessee State Veteran interred in a Tennessee Veterans Cemetery, pursuant to Rule 1735-01-01-.04.
  - (ii) The request lacks specificity.
  - (iii) An exemption makes the record not subject to disclosure under the TPRA. A written detail of the exemption and an explanation of the denial shall be provided to the requestor.
  - (iv) TDVS is not the custodian of the requested records.
  - (v) The records do not exist.
  - (vi) Any other legal grounds for denial.
3. If appropriate, contact the requestor to see if the request can be narrowed.
4. Forward the request to the appropriate records custodian in TDVS.
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.

- (c) The designated PRRC is the Department Counsel of TDVS. The PRRC may be contacted at:

TDVS Department Counsel  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 13th Floor  
Nashville, TN 37243  
Phone: 615-253-5792  
TDVS.PublicRecords@tn.gov

- (d) The PRRC shall report to the governing authority on an annual basis about TDVS' compliance with the TPRR pursuant to this Rule, and shall make recommendations, if any, for improvement or changes to this Rule.

## (2) Records Custodian

- (a) Upon receiving a public records request, the records custodian shall promptly make requested public records available in accordance with Tenn. Code Ann. §10-7-503. If the records custodian is uncertain that an applicable exemption applies or whether the records requested, or any of their contents, are protected by privacy laws or are in any way confidential or privileged under federal or state law, the custodian will consult with the PRRC.
- (b) If it is not practicable to promptly provide requested records and the records custodian needs additional time, to search for, retrieve, or otherwise gain access to the records; to determine whether the records are open; to redact records; or for other similar reasons to comply with the records request, then a records custodian or PRRC shall, within 7 business days from the records custodian's receipt of the request, send the requestor a completed Public Records Request Response Form.
- (c) If a records custodian denies a public record request, he or she shall do so in coordination with the PRRC, and shall deny the request in writing as provided in 1735-01-01-.05(1)(b)(2) using the Public Records Request Response Form.
- (d) If a records custodian reasonably determines 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 shall use the Public Records Request Response Form to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the request can be narrowed.
- (e) If a records custodian discovers records responsive to a records request were omitted, the records custodian should 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.
- (b) If questions arise concerning redaction, the records custodian should 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.
- (c) Whenever a redacted record is provided, a records custodian should 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. §§ 4-4-103, 10-7-503, and 46-6-106.

#### 1735-01-01-.06 Inspection of Records

- (1) There shall be no charge for inspection of open public records.
- (2) The location for inspection of records within the offices of the Tennessee Department of Veterans Services should be determined by the PRRC.
- (3) Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location.

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

#### 1735-01-01-.07 Copies of Records

- (1) The PRRC shall promptly respond to a public records request for copies in the most economic and efficient manner practicable.
- (2) Copies will be available for pickup at 312 Rosa L. Parks Ave. 13th Floor Nashville, TN 37243, unless otherwise informed by the PRRC.
- (3) Upon payment for postage or delivery charges, copies will be delivered to the address provided by the requestor.
- (4) If the requestor requests digital copies, digital copies will be delivered via email to an email address designated by the requestor.
- (5) TDVS, or its contractors or agents, shall maintain custody of its records at all times. A requestor shall not be allowed to take custody of any TDVS record.
- (6) A requestor may use a personal camera or cell phone to take a photograph of a public record, so long as the integrity of the record is maintained. If a record contains confidential information or information that is not open for public inspection, the record may not be photographed until all appropriate redactions are completed.

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

#### 1735-01-01-.08 Fees, Charges, and Procedures for Billing and Payment

- (1) Excessive fees and charges for copies of public records shall not be used to hinder access to public records. Unless otherwise required by statute, no charges will be assessed for copies and duplicates unless total cost of both copying and labor is more than \$50.00.
- (2) Records custodians in collaboration with the PRRC shall provide requestors with an itemized estimate of the charges prior to producing copies of records and shall require pre-payment of such charges before producing requested records.
- (3) When fees for copies and labor do not exceed \$50.00, the fees will be waived. Requests for waivers for fees above \$50.00 must be presented to the PRRC, who is authorized to determine if such waiver is in the best interest of TDVS and for the public good. Fees associated with aggregated records requests will not be waived. Fees set by statute cannot be waived.
- (4) Fees and charges for copies are as follows:
  - (a) \$0.15 per page for letter and legal-size black and white copies.

- (b) \$0.50 per page for letter and legal-size color copies.
- (c) Labor when time exceeds one (1) hour.
- (d) If an outside vendor is used, the actual cost assessed by the vendor.
- (5) Fees for labor and actual costs will be assessed in accordance with the OORC's Schedule of Reasonable Charges.
- (6) No duplication cost will be charged for requests for less than ten (10) pages.
- (7) Payment is to be made by check payable to the Tennessee Department of Veterans Services and presented to the records custodian via mail or hand delivery at William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 13th Floor, Nashville, TN 37243, unless otherwise informed by the PRRC.
- (8) Payment in advance is always required.
- (9) Aggregation of Frequent and Multiple Request
  - (a) TDVS will aggregate records requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed to be working in concert.
  - (b) The level at which records requests will be aggregated is departmental.
  - (c) The PRRC is responsible for making the determination that a group of individuals are working in concert. As soon as practicable after such a determination is made, the PRRC shall inform the individuals in writing that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.



PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access open public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist.

To: [Insert Governmental Entity Name and Name and Contact Information for the Public Records Request Coordinator]

From: [Insert Requestor's Name and Contact Information (include an address for any TPRA required written response)]

Is the requestor a Tennessee citizen?  Yes  No

Request:  Inspection (The TPRA does not permit fees or require a written request for inspection only.)  
 Copy/Duplicate

If costs for copies are assessed, the requestor has a right to receive an estimate. Do you wish to waive your right to an estimate and agree to pay copying and duplication costs in an amount not to exceed \$ \_\_\_\_\_? If so, initial here \_\_\_\_\_.

Delivery preference:  On-Site Pick-Up  USPS First-Class Mail  
 Electronic  Other: \_\_\_\_\_

Records Requested:

Provide a detailed description of the record(s) requested, including: (1) type of record; (2) timeframe or dates for the records sought; and (3) subject matter or key words related to the records. Under the TPRA, record requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your record request must provide enough detail to enable the records custodian responding to the request to identify the specific records you are seeking.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Requestor and Date Submitted

\_\_\_\_\_  
Signature of Public Records Coordinator and Date Received

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

PUBLIC RECORDS REQUEST RESPONSE FORM  
Tennessee Department of Veterans Services  
[Date]

[Requestor's Name and Contact Information]:

In response to your records request received on [Date Request Received], our office is taking the action(s)<sup>1</sup> indicated below:

The public record(s) responsive to your request will be made available for inspection:  
Location: \_\_\_\_\_  
Date and Time: \_\_\_\_\_

Copies of public record(s) responsive to your request are:

Attached;

Available for pickup at the following location: \_\_\_\_\_; or

Being delivered via:  USPS First-Class Mail  Electronically  Other: \_\_\_\_\_

Your request is denied on the following grounds:

Your request was not sufficiently detailed to enable identification of the specific requested record(s).  
You need to provide additional information to identify the requested record(s).

No such record(s) exists or this office does not maintain record(s) responsive to your request.

You have not paid the estimated copying/production fees.

The following state, federal, or other applicable law prohibits disclosure of the requested records:  
\_\_\_\_\_

It is not practicable for the records you requested to be made promptly available for inspection and/or copying because:

It has not yet been determined that records responsive to your request exist; or

This office is still in the process of retrieving, reviewing, and/or redacting the requested records.

The time reasonably necessary to produce the record(s) or information and/or to make determination of a proper response to your request is: \_\_\_\_\_.

If you have any additional questions regarding your request, please contact [Records Custodian or Public Records Request Coordinator].

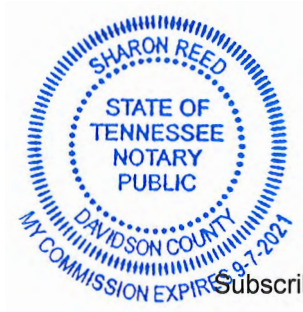
Sincerely,

[Records Custodian or Public Records Request Coordinator] [Name, Title, and Contact Information]

Authority: T.C.A. §§ 4-4-103, 10-7-503, and 46-6-106.

<sup>1</sup> If all requested records do not have the same response, so indicate.  
SS-7037 (July 2018)

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: Dec 3, 2018

Signature: Many-bea Grinder

Name of Officer: Many-bea Grinder

Title of Officer: Commissioner, TDVS

Subscribed and sworn to before me on: December 3, 2018

Notary Public Signature: Sharon Reed

My commission expires on: 9-7-2021

**Department of State Use Only**

Filed with the Department of State on: 12/3/18

Tre Hargett  
Secretary of State

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