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 Sequence Number: 12-07-20
 Notice ID(s): 3220
 File Date: 12/9/2020

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:	University of Memphis
Division:	
Contact Person:	Ingrid Powell
Address:	201 Administration Building, Memphis, TN 38152
Phone:	901-678-2039
Email:	ipowell@memphis.edu

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:	Sparkle Burns
Address:	201 Administration Building, Memphis, TN 38152
Phone:	901-678-4749
Email:	Sburns3@memphis.edu

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

Address 1:	University of Memphis, 499 University Center Dr.		
Address 2:	Senate Chambers, 363 University Center Room		
City:	Memphis, TN		
Zip:	38152		
Hearing Date:	February 11, 2021		
Hearing Time:	9:00 am	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

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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.)

Chapter Number	Chapter Title
0240-10-03	Public Records
Rule Number	Rule Title
0240-10-03-.01	Purpose and Scope
0240-10-03-.02	Definitions

0240-10-03-.03	Public Records Request Coordinator (PRRC)
0240-10-03-.04	Process for Making Requests to Inspect and/or Copy Public Records
0240-10-03-.05	Responses to Requests
0240-10-03-.06	Redaction
0240-10-03-.07	Fees, Billing and Payment
0240-10-03-.08	Aggregation of Frequent and Multiple Requests
0240-10-03-.09	Delivery of Records

NEW
Rules of
University of Memphis

Chapter 0240-10-03
Open Records

Table of Contents is added to Chapter 0240-10-03 Open Records and shall read as follows:

0240-10-03-.01 Purpose and Scope
0240-10-03-.02 Definitions
0240-10-03-.03 Public Records Request Coordinator (PRRC)
0240-10-03-.04 Process for Making Requests to Inspect and/or Copy Public Records
0240-10-03-.05 Responses to Requests
0240-10-03-.06 Redaction
0240-10-03-.07 Fees, Billing and Payment
0240-10-03-.08 Aggregation of Frequent and Multiple Requests
0240-10-03-.09 Delivery of Records

0240-10-03-.01 Purpose and Scope is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.01 Purpose and Scope

These rules are promulgated for the purpose of providing procedures to allow access to records of the University of Memphis ("University") that are subject to the Tennessee Public Records Act ("TPRA"), T.C.A. §§ 10-7-501 et seq., and are promulgated for the additional purpose of implementing and establishing fees to be charged for reproduction of records and procedures for billing and payment.

Statutory Authority: T.C.A. § 10-7-503(g); T.C.A. § 49-8-203.

0240-10-03-.02 Definitions is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.02 Definitions

(1) "Labor" means the time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the record.

(2) "Public Record"

(a) means any record of the University that is required to be open to inspection under the provisions of the Tennessee Public Records Act, Tenn. Code Ann. §§ 10-7-501 et seq.

(b) The term "public record" does not include any data in any record, or any portion of a record, that is:

(1) protected as confidential or privileged pursuant to any state law, including T.C.A. § 10-7-504, or regulation, or federal law or regulation or under any court order; or

(2) protected as privileged under any statutory or common law privilege; or

(3) protected as any attorney work product; or

(4) protected by the attorney/client or any other professional privilege; or

(5) the device or equipment that may have been used to create or store a public record including, but not limited to, a cell phone, computer, or other electronic or mechanical device or equipment.

(3) "Public Records Request Coordinator" means the person who receives and coordinates public records requests and maintains documentation of public records requests, responses, and charges.

(4) "Records Custodian" means 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.

(5) "Requestor" means the person who requests to inspect or copy public records of the University. To have access to public records, a requestor must be a citizen of the State of Tennessee.

Statutory Authority: T.C.A. § 10-7-503 (a) and (g).

0240-10-03-.03 Public Records Request Coordinator (PRRC) is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.03 Public Records Request Coordinator (PRRC)

(1) The Public Records Request Coordinator (PRRC) coordinates the University's responses to public records requests and maintains documentation of public records requests, responses and fees.

(2) The designated PRRC is located in the University's Office of Legal Counsel and can be contacted at 201 Administration Building, Memphis, Tennessee 38152, www.openrecordsrequest@memphis.edu or 901.678.2155.

Statutory Authority: T.C.A. § 10-7-503 (a) and (g).

0240-10-03-.04 Process for Making Requests to Inspect and/or Copy Public Records is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.04 Process for Making Requests to Inspect and/or Copy Public Records

(1) Persons requesting to inspect or receive copies of a record are required to provide identification of Tennessee residency with a government-issued photo identification card that includes the requestor's address. The PRRC reserves the right to accept alternative proof of residency.

(2) The request must be sufficiently detailed to enable the University to identify the specific records to be located and copied. When a request is unclear as to the records being requested, the requester will be contacted to clarify or narrow the request.

(3) Requests for inspection may be submitted by one (1) of the following methods:

(a) Orally (in person or by phone) to the PRRC's office;

(b) By mail to the PRRC's office; or

(c) By email to www.openrecordsrequest@memphis.edu.

(4) Requests for copies must be made in writing by completing a Request Form to Inspect/Copy Public Records at <https://na3.docuSign.net/Member/PowerFormSigning.aspx?PowerFormId=8982c376-8e7b-42d2-8c70-10ad0dfae795> and submitting:

(a) In person to the PRRC's office;

(b) By mail to the PRRC's office; or

(c) By email to www.openrecordsrequest@memphis.edu.

(5) Custody of the original records will not be relinquished. No records shall be produced or copied in a form to further a commercial business or similar purpose (i.e., including but not limited to mailing and/or telephone list, special format on computer disc, etc.). Electronic records will be produced in a secure .pdf format.

(6) A requestor will be allowed to make copies of records with a personal electronic device (portable printer, camera or a cell phone) so long as the requestor allows the PRCC to review the electronic device for purposes of confirming what documents were copied. If the copies exceed the \$25 fee waiver production cost, the requestor will be required to pay either the full or a pro rata share of the production cost.

Statutory Authority: T.C.A. § 10-7-503 (a) and (g).

0240-10-03-.05 Responses to Requests is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.05 Responses to Requests

(1) The PRRC will review all public records requests and will assure that:

- (a) The requestor is a citizen of the State of Tennessee (A requestor shall show proof by submitting a government-issued photo identification that includes the requestor's address. The PRRC reserves the right to accept alternative proof of residency);
- (b) The request identifies with sufficient specificity the records that are the subject of the request;
- (c) The items requested are Public Records;
- (d) If appropriate, notice will be provided to the person whose file is the subject of the request that a request for inspection has been made; and
- (e) The public records are reviewed and redacted of confidential information as appropriate before being made available for review.

(2) The PRRC will respond promptly to requests. If not practicable to promptly provide the requested records, the PRRC will respond to the requestor within seven (7) business days. The response will include any one (1) of the following responses, as applicable:

- (a) The records are ready and providing the requestor with the location, date and hours of availability.
- (b) An estimate of the time needed to produce the records if the requested record is not available within the seven (7) day time frame.
- (c) A denial of the request, which will include the reason for denial of the request which may include the following:
 - (1) The requestor did not provide proof of Tennessee residency;
 - (2) Need clarification of request;
 - (3) The record is exempt from disclosure under TPRA (The applicable statutory exemption or other exemptions will be cited.);
 - (4) The University is not the custodian of the requested records; or
 - (5) There are no records responsive to the request.

Statutory Authority: T.C.A. § 10-7-503 (a) and (g).

0240-10-03-.06 Redaction is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.06 Redaction

(1) The following information shall be redacted (stricken) before being made available for inspection or copying:

- (a) Confidential by state or federal law or regulation.
- (b) Not made or received pursuant to law or ordinance.
- (c) Not made or received in connection with the transaction of official business.

Statutory Authority: T.C.A. § 10-7-503(g); T.C.A. § 10-7-504.

0240-10-03-.07 Fees, Billing and Payment is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.07 Fees, Billing and Payment

- (1) No fees or charges will be assessed for inspection of records.
- (2) An itemized estimate of the fees and charges for any copies will be provided in advance to the requestor. Payment in full of the actual costs must be made prior to the release of requested records.
- (3) In the cases where the cost of the total production, including copies, labor/programming charges, and delivery is less than \$25.00, the cost will be waived, with the exception of fees associated with aggregated records requests.
- (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) The price per copy for larger documents (including but not limited to items such as blueprints and other specialized documents) is the actual cost.
 - (d) Delivery costs incurred by the University, including but not limited to costs such as postal fees, etc., will be added to the final bill.
 - (e) Labor charges are assessed when the time spent locating, retrieving, reviewing, redacting, and reproducing the record(s) exceeds one (1) hour.
 - (f) If an outside vendor is used to produce copies, the actual costs assessed by the vendor will be charged to the requestor.
- (5) Acceptable forms of payment for costs are cash or a check made out to the University of Memphis. Credit card payments are acceptable if paying in person.

Statutory Authority: T.C.A. § 10-7-503 (a) and (g).

0240-10-03-.08 Aggregation of Frequent and Multiple Requests is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.08 Aggregation of Frequent and Multiple Requests

- (1) The University will aggregate records requests when more than four (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert). The PRRC will be responsible for making the determination if a group of individuals are working in concert.
- (2) When the total number of requests made by a requestor(s) during a calendar month exceeds four (4), the requestor shall be charged a fee for all labor that is reasonably necessary to produce copies of the requested records. The one (1) free hour of labor before additional costs are assessed will not be applicable.

Statutory Authority: T.C.A. § 10-7-503(g).

0240-10-03-.09 Delivery of Records is added to Chapter 0240-10-04 and shall read as follows:

0240-10-03-.09 Delivery of Records

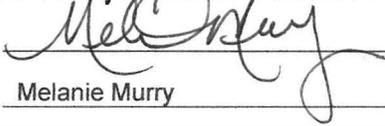
- (1) The requestor will have the following options for delivery of the record(s):
 - (a) On-site pick-up (PRRC's office or designated location);
 - (b) Electronically (depending on size of request); or

(c) USPS First-Class Mail.

Statutory Authority: T.C.A. § 10-7-503(g).

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: 12/9/2020

Signature: 

Name of Officer: Melanie Murry

Title of Officer: University Counsel/Secretary to Board of Trustees

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Filed with the Department of State on: 12/9/2020


Tre Hargett
Secretary of State

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Sequence Number: 02-13-21
File Date: 2/11/2021

Cancellation of Rulemaking Hearing Form

Agency/Board/Commission:	University of Memphis
Division:	
Contact Person:	Ingrid Powell
Address:	201 Administration Building, Memphis, TN
Zip:	38152
Phone:	901-678-2039
Email:	ipowell@memphis.edu

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

Address 1:	University of Memphis, 499 University Center Dr.		
Address 2:	Senate Chambers, 261 University Center Room		
City:	Memphis, TN		
Zip:	38152		
Hearing Date:	02/11/2021		
Hearing Time:	9:00 am	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT

This cancellation refers to the following Notice of Rulemaking Hearing:

Cancelled Rulemaking Hearing Sequence Number: 12-07-20

Cancelled Rulemaking Hearing File Date: December 9, 2020

Additional Hearing Cancellation Information:

Due to the inclement weather, the University of Memphis is closed. Therefore, we are unable to hold our Public Records Hearing in-person.

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Date: February 11, 2021

Signature: Melanie Murry

Name of Officer: Melanie Murry

Title of Officer: University Counsel/Secretary to Board of Trustees