

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-15-01
PUBLIC RECORDS REQUESTS**

0520-15-01-.01 PUBLIC RECORDS REQUESTS GENERALLY.

- (1) In accordance with the Tennessee Public Records Act (TPRA), T.C.A. § 10-7-503 et seq., the State Board's public 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 or federal law. Accordingly, the public records of the State Board are presumed to be open for inspection unless an exemption is otherwise provided by law.
- (2) Personnel of the State Board shall provide access and assistance to Tennessee citizens requesting access to public records, in accordance with the provisions of the TPRA and this Chapter. No provision of this Chapter 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 State Board, shall be protected as provided by current law. Concerns about the provisions or enforcement of this Chapter should be addressed to the State Board's Public Records Request Coordinator (PRRC) or to the Tennessee Office of Open Records Counsel (OORC).
- (3) The TPRA grants Tennessee citizens the right to access public records that exist at the time of the request. Nothing in the TPRA or this Chapter shall be construed as requiring a Records Custodian or the PRRC to sort through files to compile information into a new record or to create or recreate a record that does not exist.
- (4) In accordance with the TPRA and this Chapter, State Board personnel will respond promptly to public record requests upon proof of Tennessee citizenship by presentation of a validly issued Tennessee driver's license or Tennessee-issued photo identification that includes the Requestor's address. If the Requestor does not possess photo identification, then other forms of identification evidencing the Requestor's identity and Tennessee citizenship may be accepted.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.

0520-15-01-.02 DEFINITIONS.

- (1) "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. Public records do not include the device or equipment, including, but not limited to, a cell phone, computer, or other electronic or mechanical device or equipment, that may have been used to create or store a public record.
- (2) Public Records Request Coordinator" or "PRRC" means the individual, or individuals, identified in this Chapter 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 TPRA. The PRRC may also be a records custodian.

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- (3) "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.
- (4) "Redacted Record" means a public record otherwise open for public inspection from which protected or confidential information is removed or obscured prior to release or inspection.
- (5) "Requestor" means a Tennessee citizen requesting access to a public record, whether for inspection or duplication.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.

0520-15-01-.03 MAKING PUBLIC RECORDS REQUESTS.

- (1) All public record requests shall be made to the PRRC in order to ensure public record requests made pursuant to the TPRA are routed to the appropriate Records Custodian and fulfilled in a timely manner. The designated PRRC for the State Board is the General Counsel, or in the absence of the General Counsel, the Deputy General Counsel or an Associate Counsel, provided, however, that the responsibilities of the PRRC may be delegated to one (1) or more State Board employees under the supervision of the PRRC.
 - (a) The PRRC may be contacted at:
 Tennessee State Board of Education
 Attn: Public Records Request Coordinator
 Davy Crockett Tower, 8th Floor
 500 James Robertson Parkway
 Nashville, TN 37243
 615-741-2966 (phone)
 615-741-0371 (fax)
 SBEPublic.Records@tn.gov
- (2) Requests only for inspection shall be made orally to the PRRC via phone or in-person at the PRRC's contact information noted in paragraph (1)(a) above, or in writing to the PRRC at the PRRC's contact information noted in paragraph (1)(a) above. If a request for inspection is made orally, the PRRC shall request a U.S. mail address or email address from the Requestor in order to provide any written communication required under the TPRA. Requests for copies shall be made in writing via fax, email, mail, or hand delivery to the PRRC at the contact information noted in paragraph (1)(a) above.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019. Amendments filed December 23, 2019; effective March 22, 2020.

0520-15-01-.04 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (1) The PRRC shall review public record requests received by the State Board and make an initial determination of the following:
 - (a) If the Requestor has provided evidence of Tennessee citizenship;
 - (b) If the records requested are described with sufficient specificity to identify them; and

(Rule 0520-15-01-.04, continued)

- (c) If the State Board is the custodian of the records requested.
- (2) The PRRC shall acknowledge receipt of the request and take any of the following action(s), as appropriate:
 - (a) Advise the Requestor of this Rule and:
 - 1. Any determinations regarding proof of Tennessee citizenship;
 - 2. Applicable fees (and labor threshold and waivers if applicable); or
 - 3. Aggregation of multiple or frequent requests.
 - (b) Deny the request in writing if an appropriate ground applies, including the basis for the denial, using the Public Records Request Response Form developed by State Board staff. Appropriate grounds for denial include, but are not limited to, the following:
 - 1. Requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - 2. Request lacks specificity or needs clarification;
 - 3. An exemption makes the requested record not subject to disclosure under state or federal law;
 - 4. The State Board is not the custodian of the requested records;
 - 5. The requested records do not exist.
 - (c) If appropriate, contact the Requestor to see if the request can be narrowed or clarified.
 - (d) Forward the records request to the appropriate Records Custodian in the State Board with notice of the date the request was received and the deadline for when a response to the request is due.
 - (e) If the requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the Requestor in writing of the correct entity and PRRC for that entity, if known.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.

0520-15-01-.05 RECORDS CUSTODIAN.

- (1) Upon receiving a public records request forwarded by the PRRC, the Records Custodian shall make requested records available as promptly as practicable in accordance with T.C.A. § 10-7-503, if the requested records are not exempt from disclosure.
- (2) If it is not practicable for the Records Custodian to promptly provide requested records because additional time is necessary to determine whether the requested records exist, to gain access to records, to determine whether the records are open, to redact records, or

(Rule 0520-15-01-.05, continued)

for other similar reasons, then the Records Custodian shall notify the PRRC who shall, within seven (7) business days from the PRRC's receipt of the request, send the Requestor a completed Public Records Request Response Form developed by State Board staff stating the time reasonably necessary to produce the record or information.

- (3) If the Records Custodian determines that a public record request should be denied, the Records Custodian shall notify the PRRC, and provide the ground(s) for denial. If the PRRC agrees the request should be denied, the PRRC shall deny the request in writing using the Public Records Request Response Form developed by State Board staff. Grounds for denial include, but are not limited to, the following:
 - (a) Requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (b) Request lacks specificity or needs clarification;
 - (c) An exemption makes the record not subject to disclosure under state or federal law;
 - (d) The State Board is not the custodian of the requested records;
 - (e) The requested records do not exist.
- (4) If the requested records relate to another governmental entity and the PRRC is aware of the correct governmental entity, the PRRC shall advise the Requestor of the correct governmental entity and PRRC for that entity, if known.
- (5) If the 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 or PRRC shall 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 or PRRC should contact the Requestor to see if the request can be narrowed.
- (6) If the Records Custodian discovers records responsive to a records request were omitted from the production, the Records Custodian or PRRC shall promptly contact the Requestor concerning the omission and produce the records as quickly as practicable.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.

0520-15-01-.06 REDACTION.

- (1) 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 the PRRC regarding review and redaction of records. The Records Custodian and the PRRC may also consult with the OORC or the Office of the Attorney General and Reporter.
- (2) Whenever a Redacted Record is provided, the Records Custodian or PRRC shall provide the Requestor with the basis for redaction. The basis given for redaction shall not disclose confidential information. A Records Custodian is not required to produce a privilege log.

(Rule 0520-15-01, continued)

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.

0520-15-01-.07 INSPECTION OF RECORDS.

- (1) There is no charge to view public records that are subject to inspection under the TPRA, however, any information made confidential by state or federal law shall be redacted prior to making the record available for inspection.
- (2) Inspection of records shall take place at the offices of the State Board of Education. The location for inspection of records within the offices of the State Board shall be specified by the Records Custodian or PRRC.
- (3) A Records Custodian or PRRC may require an appointment for inspection of records that cannot be promptly made available for inspection. A Records Custodian or PRRC may also require inspection of records at an alternate location under reasonable circumstances.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.

0520-15-01-.08 COPIES OF RECORDS.

- (1) Copies will be available for pickup at the State Board's offices during regular business hours.
- (2) Upon payment for costs of postage, copies will be delivered to the Requestor's home address by the U.S. Postal Service.
- (3) A Requestor will not be allowed to make copies of records with personal equipment. However, a Requestor may use a personal camera to take a photograph of a record.
- (4) If the State Board maintains the requested record(s) in an electronic format, copies of the requested record(s) may be provided to the Requestor in an electronic format as follows:
 - (a) The records may be downloaded to a flash drive (or equivalent storage device) provided by the State Board. The Requestor shall be charged for the flash drive (or equivalent storage device) at the current cost to the State Board. Downloading to a flash drive (or equivalent storage device) provided by the Requestor shall not be permitted.
 - (b) If the requested record exists in an electronic format that may be transmitted by email, the records may be sent via email.
- (5) The Records Custodian shall respond to a request for copies in the most economic and efficient manner practicable.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019. Amendments filed December 23, 2019; effective March 22, 2020.

(Rule 0520-15-01, continued)

0520-15-01-.09 FEES AND CHARGES.

- (1) Prior to producing copies of records, the Records Custodian shall provide the Requestor with an estimate of the charges (itemized by per page costs, labor, and other) to be assessed, and may require pre-payment of such charges before producing requested records. If the time required to identify, locate, redact (if applicable), and download or transmit records maintained electronically via methods set forth in Section .08 of this Chapter exceeds the labor threshold identified in paragraph (3) below, the production of the records shall be subject to the same labor charge identified in paragraph (3) below.
- (2) When fees for copies and labor do not exceed \$10.00, the fees shall be waived. Requests for waivers for fees above \$10.00 must be presented to the PRRC, who is authorized to determine if such waiver is in the best interest of the State Board and for the public good.
- (3) Fees and charges for copies are as follows, but no more than the safe harbor amount authorized by the OORC Schedule of Reasonable Charges, unless a higher charge can be documented:
 - (a) \$0.15 cents per page for letter and legal-sized black and white copies;
 - (b) \$0.50 cents per page for letter and legal-sized color copies.
 - (c) Labor will be charged when time exceeds two (2) hours and shall be calculated according to the OORC Schedule of Reasonable Charges.
 - (d) If an outside vendor is used, the actual costs assessed by the vendor.
 - (e) Other charges shall be in accordance with the OORC Schedule of Reasonable Charges.
- (4) Payment is to be made in cash, money order, or personal check payable to the Tennessee State Board of Education.
- (5) Payment in advance will be required when costs are estimated to exceed \$100.00.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.

0520-15-01-.10 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.

- (1) The State Board will aggregate record requests for the purpose of calculating charges for copies of public records in accordance with the Reasonable Charges for 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 working in concert.
- (2) If it is determined that records requests submitted to the State Board will be aggregated:
 - (a) Records requests will be aggregated at the agency level.
 - (b) The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the Records Custodian must inform the

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individuals 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. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.