

Lenoir City Board of Education

Monitoring: Review: Annually, in September	Descriptor Term: School District Records	Descriptor Code: 1.407	Issued Date: 12/14/17
		Rescinds: 1.407	Issued: 11/09/17

1 The director of schools shall maintain all school district records required by law, regulation, and board
2 policy. Any citizen of Tennessee, state official or other authorized person shall be permitted, upon
3 written request, at a reasonable time to inspect all records maintained by the school district unless
4 otherwise prohibited by law, regulation or board policy. Any citizen of Tennessee may request in writing
5 and receive copies of open public records subject to the payment of reasonable cost.^{1,2,3,4} A schedule of
6 reasonable charges is attached to this policy. The names of persons inspecting records and the date of
7 inspection shall be recorded.

8 No records pertaining to individual students will be released for inspection by the public or any
9 unauthorized persons. In addition, information, records, and plans related to security and safety will not
10 be released for public inspection.¹¹

11 All requests to inspect or receive copies of records shall be submitted to Jeanie Mowery, the district's
12 public records request coordinator and records custodian.¹²

13 Prior to producing any record, the records custodian shall ensure confidential information is redacted.
14 Original documents remain intact and confidential information in copies produced for a requestor shall
15 be redacted. The director of schools shall develop a procedure to redact confidential information.

16 **REQUESTS FOR INSPECTION²**

17 Citizens requesting to inspect public records shall submit their request and a government issued photo
18 identification card with the citizen's address to the district's public records request coordinator during
19 normal business hours. Requests may be made in person, in writing, or by telephone, fax, mail, or
20 electronic mail (e-mail). The coordinator shall submit the information to the appropriate records
21 custodian. The records custodian will contact the citizen and indicate when the records will be
22 available to inspect.

23 If the records cannot be made available within seven (7) business days, the records custodian shall
24 provide a records production letter indicating the time needed to complete the request.

25 If the request to inspect is denied, the records custodian shall provide the citizen with a records request
26 denial letter indicating the basis for the denial.

27 **REQUESTS FOR COPIES²**

28 Citizens requesting copies of public records shall complete and submit the Records Request Form and
29 a government issued photo identification card with the citizen's address to the district's public records
30 request coordinator during normal business hours.

1 The records custodian shall provide an estimate of the reasonable costs to produce the requested
2 records. The records custodian will provide the citizen with an invoice detailing the charges. The
3 citizen shall pay the estimated reasonable costs by check prior to the district producing the copies.

4 If the records cannot be made available within seven (7) business days, the records custodian shall
5 provide a records production letter indicating the time needed to complete the request.

6 If the request for copies is denied, the records custodian shall provide the citizen with a records request
7 denial letter detailing the basis for the denial.

8 **FREQUENT AND MULTIPLE REQUESTS**

9 When the total number of requests for copies made by a requestor within a calendar month exceeds
10 four (4), the requestor may be charged a fee for any and all labor that is reasonably necessary to
11 produce copies of the requested records. Prior to charging a reasonable fee, the requestor shall be
12 notified of this policy and provided with a Notice of Aggregation of Multiple Requestors form. The
13 Tennessee Comptroller of the Treasury, Office of Open Records Counsel Schedule of Reasonable
14 Charges found at <https://www.comptroller.tn.gov/openrecords/forms.asp> shall be used to determine the
15 reasonable cost. Further, the names of persons inspecting records and the date of inspection shall be
16 recorded.

17 **DENYING REQUESTS FOR NONCOMPLIANCE¹³**

18 *Requests to Inspect a Public Record*

19 The district shall deny a request to inspect a public record from any citizen that has:

- 20 a. made two (2) or more requests to view a public record within a six-month period; and
- 21
- 22 b. for each request failed to view the record within fifteen (15) business days of receiving
- 23 notification that the record was available.

24 Requests from this citizen shall be denied for up to six (6) months from the date of the second records
25 request. The district's public records request coordinator may waive this denial if he/she determines
26 that failure to view the record was for good cause.

27 *Requests for Copies of Public Records*

28 The district shall deny a request for copies of a public record from any citizen that has:

- 29 a. been provided with an estimate of the reasonable cost to produce the requested records;
- 30 b. agrees to pay such estimated reasonable cost prior to production of the records; and
- 31 c. fails to pay the actual cost after the records have been produced.

32 Additional requests from this citizen shall be denied until the original cost is paid.

1 RECORDS RETENTION

2 The director of schools and/or his/her designee(s) shall retain and dispose of school district records in
3 accordance with the following guidelines:^{2,4}

- 4 1. The director of schools and/or his/her designee(s) will determine if a particular record is of
5 permanent or temporary value in accordance with regulations promulgated by County Public
6 Records Commission and the Tennessee Institute for Public Services records manual;^{5,6}
- 7 2. Temporary value records which have been kept beyond the required time may be recommended
8 to the Public Records Commission for destruction;^{7,8}
- 9 3. The records that the State Librarian and Archivist desire to preserve in their facilities will be
10 transferred to the State Library and Archives. The temporary value records rejected by the State
11 Library and Archives may be transferred to another institution or destroyed;^{7,8,9}
- 12 4. Permanent records will be kept in some usable form (digital, printed, microfilm, etc.). If the
13 director of schools desires to destroy the original permanent record, these records must be
14 reproduced by microfilming or some other permanent reproduction method. Permission to
15 destroy any original permanent record after microfilming follows the same procedure noted
16 above for temporary records;^{6,8} and
- 17 5. The director of schools shall establish procedures to safeguard against the unlawful destruction,
18 removal, or loss of records.¹⁰

19 DISTRICT PUBLIC RECORDS REQUEST COORDINATOR¹⁴

20 Jeanie Mowery
21 Business Manager
22 865-986-8058
23 jmowery@lenoircityschools.net

Legal References

1. TCA 49-2-301(b)(1)(CC)
2. TCA 10-7-503; Public Acts of 2017, Chapter No. 233
3. TCA 10-7-506(a)
4. TCA 49-2-104
5. TCA 10-7-401
6. TCA 10-7-406
7. TCA 10-7-404
8. TCA 10-7-413
9. TCA 10-7-414
10. TCA 39-16-504
11. TCA 10-7-504(p)
12. *Policy Related to Reasonable Charges a Records Custodian May Charge for Frequent and Multiple Requests for Public Records*, Tennessee Comptroller of the Treasury, available at <https://www.comptroller.tn.gov/openrecords/forms.asp>.
13. Public Acts of 2017, Chapter No. 233
14. TCA 10-7-503(g)(4)

Cross References

Financial Reports and Records 2.701
Personnel Records 5.114
Student Records 6.600

1 SCHEDULE OF REASONABLE CHARGES FOR COPIES OF PUBLIC RECORDS

2 **Section 6 of Public Chapter 1179, Acts of 2008** (“Public Chapter 1179”) adds T.C.A. Section 8-4-
3 604(a)(1) which requires the Office of Open Records Counsel (“OORC”) to establish a schedule of
4 reasonable charges (“Schedule of Reasonable Charges”) which may be used as a guideline in
5 establishing Charges or fees, if any, to charge a citizen requesting copies of public records under the
6 Tennessee Public Records Act (T.C.A. Sections 10-7-503, et seq.)(“TPRA”). The development date of
7 the Schedule of Reasonable Charges is October 1, 2008, and notification of the development will be
8 given to the Tennessee Code Commission on October 31, 2008. This Schedule of Reasonable Charges
9 will be reviewed at least annually by the OORC.

10 The TPRA grants Tennessee citizens the right to request a copy of a public record to which access is
11 granted under the state law. Public Chapter 1179 adds T.C.A. Section 10-7-503(a)(7)(A) which
12 expressly prohibits a records custodian from charging a fee for inspection under the TPRA unless
13 otherwise required by law. However, the TPRA in T.C.A. Section 10-7-506 does permit records
14 custodians to charge for copies or duplication pursuant to properly adopted reasonable rules.

15 This Schedule of Reasonable Charges should not be interpreted as requiring a records custodian to
16 impose charges for copies or duplication of public records. If a records custodian determines to charge
17 for copies or duplication of public records, such determination and schedule of charges must be
18 pursuant to a properly adopted rule and evidenced by a written policy authorized by the governmental
19 entity’s governing authority. Application of an adopted schedule of charges shall not be arbitrary.
20 Additionally, excessive fees and other rules shall not be used to hinder access to non-exempt, public
21 records. A records custodian may reduce or waive, in whole or in part, any charge only in accordance
22 with the governmental entity’s properly adopted written policy. Pursuant to Tennessee case law, a
23 records custodian may also require payment for the requested copies of duplication prior to the
24 production of the copies or duplication.

25 Copy Charges

- 26 • A records custodian may assess a charge of 15 cents per page for each standard 8 ½ x 8 ½ x
27 14 black and white copy produced. A records custodian may assess a requestor a charge for
28 a duplex copy that is the equivalent of the charge for two (2) separate copies.
29
- 30 • If a public record is maintained in color, the records custodian shall advise the requestor
31 that the record can be produced in color if the requestor is willing to pay a charge higher
32 than that of a black and white copy. If the requestor then requests a color copy, a records
33 custodian may assess a charge of 50 cents per page for each 8 ½ x 8 ½ x 14 color copy
34 produced.
35
- 36 • If a records custodian’s actual costs are higher than those reflected above or if the requested
37 records are being produced on a medium other than 8 ½ x 11 or 8 ½ x 14 paper, the records
38 custodian may develop its own charges. The records custodian must establish a schedule of
39 charges documenting “actual cost” and state the calculation and reasoning for its charges in
40 a properly adopted policy. A records custodian may charge less than those charges

1 reflected above. Charges greater than 15 cents for black and white, and 50 cents for color,
2 can be assessed or collected only with documented analysis of the fact that the higher
3 charges actually represent such governmental entity's cost of producing such material;
4 unless there exists another basis in law for such charges.

- 5 • The TPRA does not distinguish requests for inspection of records based on intended use, be
6 it for research, personal, or commercial purposes. Likewise, this Schedule of Reasonable
7 Charges does not make a distinction in the charges assessed an individual requesting
8 records under the TPRA for various purposes. Other statutory provisions, such as T.C.A.
9 Section 10-7-506(c), enumerate fees that may be assessed when specific documents are
10 requested for a specific use. Any distinctions made, or waiver of charges permitted, must
11 be expressly permitted in the adopted policy.

12 **Additional Production Charges**

- 13 • A records custodian shall utilize the most cost efficient method of producing the requested
14 records.
- 15
16 • Delivery of copies of records to a requestor is anticipated to be by hand delivery when the
17 requestor returns to the custodian's office to retrieve the requested records. If the requestor
18 chooses not to return to the records custodian's office to retrieve the copies, the records
19 custodian may deliver the copies through means of the United States Postal Service and the
20 cost incurred in delivering the copies may be assessed in addition to any other permitted
21 charge. It is within the discretion of a records custodian to deliver copies of records
22 through other means, including electronically, and to assess the costs related to such
23 delivery.
- 24
25 • If a records custodian utilizes an outside vendor to produce copies of requested records
26 because the custodian is legitimately unable to produce the copies in his/her office, the cost
27 assessed by the vendor to the governmental entity may be recovered from the requestor.
- 28
29 • If the records custodian is assessed a charge to retrieve requested records from archives or
30 any other entity having possession of requested records, the records custodian may assess
31 the requestor the cost assessed the governmental entity for retrieval of the records.

32 **Labor Charges**

- 33
34 • "Labor" is defined as the time reasonably necessary to produce the requested records and
35 includes the time spent locating, retrieving, reviewing, redacting, and reproducing the
36 records.
- 37
38 • "Labor threshold" is defined as the labor of the employee(s) reasonably necessary to
39 produce requested material for the first hour incurred by the records custodian in producing
40 the material. A records custodian is not required to charge for labor or may adopt a labor
41 threshold higher than the one reflected above.
42

- 1 • A records custodian is permitted to charge the hourly wage of the employee(s) reasonably
2 necessary to produce the requested records above the “labor threshold.” The hourly wage is
3 based upon the base salary of the employee(s) and does not include benefits. If an
4 employee is not paid on an hourly basis, the hourly wage shall be determined by dividing
5 the employee’s annual salary by the required hours to be worked per year. For example, an
6 employee who is expected to work a 37.5 hour work week and receives \$39,000 in salary
7 on an annual basis will be deemed to be paid \$20 per hour. Again, a records custodian shall
8 utilize the most cost efficient method of producing the requested records.
9
- 10 • In calculating the charge for labor, a records custodian shall determine the number of hours
11 each employee spent producing a request. The records custodian shall then subtract the one
12 (1) hour threshold from the number of hours the highest paid employee(s) spent producing
13 the request. The records custodian will then multiply the total number of hours to be
14 charged for the labor of each employee by that employee’s hourly wage. Finally, the
15 records custodian will add together the totals for all the employees involved in the request
16 and that will be the total amount of labor that can be charged.
17
- 18 • Example:
19
- 20 The hourly wage of Employee # 1 is \$15.00. The hourly wage of Employee #2 is \$20.00.
21 Employee #1 spends 2 hours on a request. Employee #2 spends 2 hours on the same
22 request. Because employee #2 is the highest paid employee, subtract the one hour threshold
23 from the hours the employee #2 spent producing the request. Multiply the number of hours
24 each employee is able to charge for producing the request by that employee’s hourly wage
25 and then add the amounts together for the total amount of labor that can be charged (i.e.
26 $(2 \times 15) + (1 \times 20) = \50.00). For this request, \$50.00 could be assessed for labor.

27 NOTE: The first (\$5.00) five dollars of Copy Fees will be waived. Questions regarding this Schedule
28 of Reasonable Charges should be addressed to OORC.

29 Office of Open Records Counsel
30 505 Deadrick Street, Suite 1700
31 James K. Polk Building
32 Nashville, Tennessee 37243
33 (615) 401-7891, Fax (615) 532-9237
34 Toll free number: 1-866-831-3750
35 Email address: open.records@state.tn.us