

System-wide Policy: BT0014 - Public Records	
Version: 1	Effective Date: 06/26/2017

**BOARD OF TRUSTEES
POLICY ON PUBLIC RECORDS**

SECTION 1. INTRODUCTION

This policy is adopted for The University of Tennessee by The University of Tennessee Board of Trustees to provide economical and efficient access to public records as provided under the Tennessee Public Records Act. The Tennessee Public Records Act provides that all public records must, at all times during business hours, be open for personal inspection by any citizen of the state of Tennessee, and those in charge of the public records must not refuse such right of inspection to any citizen of the state of Tennessee, unless otherwise provided by law. Accordingly, the public records of The University of Tennessee are presumed to be open for inspection unless otherwise provided by law.

University employees must timely and efficiently provide access and assistance to persons requesting to inspect or receive copies of public records. The provisions of this policy must not be used to hinder access to non-confidential public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the University, must be protected as provided by law.

Concerns about this policy should be addressed to the appropriate Public Records Request Coordinator or to the Tennessee Office of Open Records Counsel.¹ This policy is posted online at <https://universitytennessee.policyletech.com/>. This policy must be applied consistently throughout the various units of the University.

SECTION 2. DEFINITIONS

“Public record(s)” or **“record(s)”** 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 in connection with the transaction of official business by The University of Tennessee. “Public record(s)” does not mean the device or equipment that

¹ This policy is based on policies and guidelines published by the state of Tennessee’s Office of Open Records Counsel as of June 26, 2017, including the Model Public Records Policy, the Best Practices & Guidelines document, the Safe Harbor Policy, the Schedule of Reasonable Charges, and the Reasonable Charges for Frequent and Multiple Requests Policy. Copies of those policies can be found online at comptroller.tn.gov/openrecords/.

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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.

“Public Records Request Coordinator” or **“PRRC”** means the individual, or individuals, designated in **Appendix A** of this policy who has, or have, the responsibility to ensure that public records requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPRA. The Public Records Request Coordinator may also be a records custodian and/or a designee of the Public Records Request Coordinator.

“Records custodian” means the University unit, 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 a public record.

“Requestor” means a person seeking access to a public record, whether it is for inspection or duplication.

“TPRA” means the Tennessee Public Records Act, Tennessee Code Annotated §§ 10-7-501 *et seq.*

“The University of Tennessee” or **“University”** means the campuses, centers, units and institutes of The University of Tennessee, and all their constituent parts, and The University of Tennessee system administration. Neither **“The University of Tennessee”** nor **“University”** means The University of Tennessee Foundation, Inc., or The University of Tennessee Research Foundation.

“University unit” means any academic, administrative, or auxiliary office, department or division of the University or any other official entity of the University, functioning through University employees acting within the scope of their University employment.

SECTION 3. REQUESTING ACCESS TO PUBLIC RECORDS

- 3.1 Public records requests must be made to the appropriate Public Records Request Coordinator to ensure that public records requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- 3.2 The University’s PRRCs are identified in **Appendix A**.
- 3.3 Requests to Inspect Public Records

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- 3.3.1 **Requests to inspect** public records may be communicated in person to the appropriate PRRC or communicated to the appropriate PRRC via telephone, mail, fax, e-mail, or via internet portal (if the PRRC maintains an internet portal for accepting public records requests).
- 3.3.2 The PRRC must not require a requestor to submit a written request to inspect public records. However, the PRRC may request that a requestor submit a written request in order to facilitate recordkeeping and ensure accuracy in fulfilling the request. The PRRC should request a mailing or e-mail address from the requestor for providing any responsive written communication required under the TPRA.
- 3.3.3 The PRRC determines the location for the inspection of public records and may require an appointment for the inspection of public records. The PRRC must not allow a requestor to inspect original records outside of the presence of a University employee designated by the PRRC. The PRRC must take reasonable precautions to ensure that the integrity of public records is maintained during the inspection of the records.
- 3.3.4 If a requestor makes two (2) or more requests to inspect a public record within a six (6) month period and, for each request, the requestor fails to inspect the public record within fifteen (15) business days of receiving notification from the PRRC that the record is available for inspection, then the PRRC is not required to comply with any public records request from the requestor for a period of six (6) months from the date of the second request to inspect the public record unless the PRRC determines that the failure to inspect the public record was for good cause.
- 3.4 Requests for Copies of Public Records
- 3.4.1 Requests for **copies, or requests for inspection and copies**, must be made in writing and submitted to the appropriate PRRC in person or via mail, e-mail, or internet portal (if the PRRC maintains an internet portal for accepting public records requests). Requestors may use the Public Records Request Form attached in **Appendix B**. The PRRC may waive the requirement that a request for copies, or a request for inspection and copies, be made in writing.

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- 3.4.2 A requestor will not be allowed to make copies of records with personal equipment (e.g., cell phones, portable scanners, portable copy machines).
- 3.5 Proof of Tennessee citizenship by presentation of a valid Tennessee driver license to the PRRC (or alternative form of identification acceptable to the PRRC) is required as a condition to inspect and/or receive copies of public records.
- 3.6 Notices of upcoming meetings of the University's Board of Trustees, along with materials relating to Board meetings, are posted and readily available at trustees.tennessee.edu.

SECTION 4. RESPONDING TO REQUESTS FOR PUBLIC RECORDS

- 4.1 Records custodians must refer requests to inspect and/or receive copies of public records to the appropriate PRRC.
- 4.2 Upon receiving a public records request:
- 4.2.1 The PRRC must review the request and make an initial determination of the following:
- (a) Whether the requestor has presented proof of Tennessee citizenship;
 - (b) Whether the requestor described the records requested with sufficient specificity to identify the records requested; and
 - (c) Whether the University is the custodian of the records requested.
- 4.2.2 The PRRC must acknowledge receipt of the request and should advise the requestor about the applicable sections of this policy.
- 4.2.3 The PRRC may ask the requestor whether the request can be narrowed.
- 4.2.4 The PRRC may offer to assist the requestor in clarifying the request if the request lacks sufficient specificity to identify the records requested.

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- 4.2.5 The PRRC must communicate with the appropriate records custodian(s) about the request (e.g., when the request was received and when a response is due; what records exist; how long the records custodian reasonably estimates it will take to produce the records; tracking employee time required to produce the records).
- 4.2.6 The PRRC must promptly make requested public records available to the requestor for inspection unless there is a basis upon which to deny the request. If not practicable to promptly provide requested records for inspection 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 PRRC must do one of the following within seven (7) business days from the University's receipt of the request:
- (a) Make the records available to the requestor;
 - (b) Deny the request in writing in accordance with Section 4.3; or
 - (c) Provide the requestor with a completed Public Records Request Response Form (**Appendix C**).
- 4.3 If denying the request is appropriate, then the PRRC must deny the request in writing (the PRRC may use the Public Records Request Response Form – **Appendix C**) and provide the basis for the denial, such as one of the following:
- (a) The requestor is not, or has not presented proof of being, a Tennessee citizen;
 - (b) The request lacks sufficient specificity to identify the records requested;
 - (c) An exemption makes the record not subject to disclosure under the TPRA (the PRRC must state the basis for the denial in writing);
 - (d) The University is not the custodian of the requested records (if requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, then the PRRC

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should advise the requestor of the correct governmental entity and PRRC for that entity if known); or

(e) The records do not exist.

4.4 The TPRA does not require the University to sort through files to compile information or to create or recreate a record that does not exist.

4.5 If the PRRC 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, then the PRRC should 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 the production of records is segmented, then the PRRC may segment the pre-payment of production costs.

4.6 If the PRRC discovers that public records responsive to a public records request were omitted, then the PRRC should contact the requestor concerning the omission and produce the public records as quickly as practicable.

4.7 Redaction

4.7.1 If a record contains information that is not open for public inspection (e.g., confidential information), then the PRRC must coordinate with the records custodian to prepare a redacted copy of the public record prior to providing access to the requestor. If questions arise concerning redaction, the PRRC or the records custodian should consult with the Office of the General Counsel.

4.7.2 Whenever a redacted record is provided, the PRRC should provide the requestor with the basis for redaction. The basis given for redaction must be general in nature and not disclose confidential information.

4.8 Law Enforcement Personnel Records

4.8.1 If a requestor makes a request to inspect the personnel records of an employee in a University police department, then prior to allowing an inspection the PRRC must:

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- (a) Obtain the requestor's name, address, business telephone number, home telephone number, and driver license number or other appropriate identification, or if the request is made for a professional, business purpose, or official purpose, obtain the requestor's business address, business telephone number, business e-mail address, and if requested by the campus chief law enforcement officer or his/her designee, the name and contact number or e-mail address for a supervisor for verification purposes;
- (b) Redact personal information in accordance with the standards for all employees as set forth in **Appendix F**;
- (c) Notify the chief law enforcement officer for the campus (or his/her designee), who must consider whether there is a reason not to disclose additional personal information relating to the law enforcement employee. "Personal information" includes, but is not limited to, an officer's residential address, home and personal cellular telephone number; place of employment; name, work address and telephone numbers of the officer's immediate family; name, location, and telephone number of any educational institution or daycare provider where the officer's spouse or child is enrolled;
- (d) If the request is for a professional, business, or official purpose, then the chief law enforcement officer (or his/her designee) must consider the specific circumstances and determine whether there is a reason not to disclose other information relating to the employee; and
- (e) Ensure that the chief law enforcement officer (or his/her designee), prior to making a final decision on whether to withhold information in addition to that required by **Appendix F**, has notified the employee whose file has been requested and has provided two (2) business days for the employee to be heard and oppose the release of the information.

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- 4.8.2 After giving an employee time to oppose the release of information, if the chief law enforcement officer for the campus (or his/her designee) decides to withhold information (other than pursuant to **Appendix F**), then a specific reason must be given to the requestor in writing within two (2) business days, and the file must be released with the personal information redacted.
- 4.8.3 The chief law enforcement officer for the campus (or his/her designee) may keep information that could be used to identify or to locate an undercover employee in a location other than the employee’s personnel file.
- 4.8.4 When the personnel records of a University law enforcement employee are inspected, the PRRC must make a record of such inspection and provide notice, within three (3) days from the date of the inspection, to the employee whose personnel records have inspected. The record made by the PRRC must include the following information:
 - (a) That an inspection of the employee’s personnel records took place;
 - (b) The name, address, and telephone number of the person making the inspection;
 - (c) For whom the inspection was made; and
 - (d) The date of such inspection.

SECTION 5. FEES AND CHARGES FOR PUBLIC RECORDS; PROCEDURES FOR BILLING AND PAYMENT

- 5.1 Unless charges are waived (Section 5.1.5), the PRRC must charge the requestor for all reasonable costs the University incurred to produce copies of the public records requested by the requestor (“production costs”).
 - 5.1.1 Production costs include copying costs (Section 5.5), labor costs (Section 5.6), and delivery costs (Section 5.7).

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- 5.1.2 Charges for production costs should not be used to unlawfully hinder access to public records.
- 5.1.3 The Schedule of Reasonable Charges for Copies of Public Records, published by the Office of Open Records Counsel, will be used as a guideline to determine the amount that a requestor will be charged for production costs.
- 5.1.4 No charges will be assessed for copies of public records unless the production costs exceed five dollars (\$5).
- 5.1.5 When the production costs exceed five dollars (\$5), the production costs may be waived by the PRRC in the following circumstances:
 - (a) When the requestor is an employee of a federal, state, or local government agency acting in the requestor's official government capacity;
 - (b) When the requestor is a current employee of the University who has requested copies of the requestor's personnel records; and
 - (c) Other circumstances in which the PRRC determines, after consultation with appropriate University employees, that such a waiver is in the best interest of the University.
- 5.1.6 Production costs associated with aggregated records requests (Section 5.10) will not be waived.
- 5.2 There must be no charge for the inspection of public records unless required by law. However, the PRRC is not prohibited from charging the requestor for production costs if the requestor requests copies of public records after requesting to inspect public records, but the PRRC may charge the requestor only for the production costs reasonably attributable to the copies requested by the requestor.
- 5.3 A PRRC, working with the records custodian, must promptly respond to a public records request for copies in the most economic and efficient manner practicable as determined by the PRRC.

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5.4 Estimate of Production Costs and Pre-Payment of Production Costs

5.4.1 The PRRC must provide a requestor with an estimate of the production costs prior to producing copies of records unless:

- (a) Production costs are estimated to be less than five dollars (\$5) and, thus, no charges will be assessed for copies of public records (Section 5.1.4); or
- (b) Charges for production costs are waived (Section 5.1.5).

5.4.2 The PRRC may use the Estimate of Production Costs Form found in **Appendix D** to provide a requestor with an estimate of the production costs.

5.4.3 When estimated production costs are more than fifty dollars (\$50), must require pre-payment of at least fifty percent (50%) of such production costs before beginning the process of producing the requested records. The University is not bound by the estimate of the production costs.

5.5 Copying Costs

5.5.1 Copying costs include the costs related to making copies of the public records requested by the requestor by photographic or other means of duplication.

5.5.2 Copying costs must be as follows:

- (a) The PRRC must assess a charge of fifteen cents (\$0.15) per page for each standard 8 ½ x 11" or 8 ½ x 14" black and white copy produced.
- (b) If a public record is maintained in color, then the PRRC must advise the requestor that the record can be produced in color if the requestor is willing to pay the higher charge for a color copy. If the requestor then requests a color copy, then the PRRC must assess a copy charge of fifty (50) cents per page for each 8 ½ x 11" or 8 ½ x 14" color copy produced.

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- (c) The charge for a duplex copy must be the same as the charge for two (2) separate copies.
- (d) If a copy of a public record is produced on a medium other than 8 ½ x 11" or 8 ½ x 14" paper, then the PRRC must assess a copy charge equal to the actual cost of producing a copy of the public record, taking into consideration the amount of material, equipment costs, and the cost of the alternative medium.
- (e) If the requested records exist electronically, but not in the format requested or a new or modified computer program or application is necessary to put the records in a readable and reproducible format or it is necessary to access backup files, then the PRRC must charge the requestor the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing backup files.
- (f) Electronic records will be produced only in a read-only format.
- (g) The TPRA does not require the University to provide public records to a requestor in the format requested by the requestor (e.g., a format that can be manipulated; paper instead of electronic).
- (h) When providing electronic copies of public records, the PRRC may charge per-page copying costs only when paper copies that did not already exist were required to be produced in responding to the request, such as when an electronic public record must be printed to be redacted.
- (i) The PRRC may charge the actual costs for flash drives or similar storage devices on which electronic copies are provided.

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5.6 Labor Costs

5.6.1 The PRRC must charge the requestor the hourly wage of the employee(s) reasonably necessary to produce the requested records above the labor threshold.

5.6.1.1 The “labor threshold” is the labor of the employee(s) reasonably necessary to produce requested records for the first hour incurred by the University in producing the records.

5.6.1.2 “Labor” means the employee time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records.

5.6.1.3 The “hourly wage” is based upon the employee(s) base salary and does not include benefits.

5.6.2 In calculating the labor costs to be charged to the requestor, the PRRC must:

- (a) First, determine the number of hours each employee spent producing the requested public records;
- (b) Second, subtract the one (1) hour labor threshold from the number of hours the highest paid employee spent producing the request;
- (c) Third, multiply the total number of hours to be charged for the labor of each employee by that employee’s hourly wage; and
- (d) Fourth, add together the totals for all the employees involved in the request to determine the total amount of the labor costs to be charged to the requestor.

5.6.3 Labor costs should be tracked based on tenths of an hour, rounded down.

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- 5.6.4 The PRRC should strive to ensure that current employees with the lowest practicable hourly wage be used to fulfill public records requests. However, the PRRC has the discretion to determine that it is more cost effective to utilize a higher-compensated employee if he/she can accomplish the task more efficiently, which may result in lower total labor costs.
- 5.7 Delivery Costs
- 5.7.1 The PRRC must charge the requestor for the costs incurred by the University in delivering the records to the requestor.
- 5.7.2 Copies will be available for pickup at a location specified by the PRRC.
- 5.7.3 Upon prepayment for postage, copies will be delivered by the United States Postal Service to the address identified by the requestor.
- 5.7.4 In the discretion of the PRRC, copies of public records may be delivered through other means, including electronically.
- 5.8 If the PRRC utilizes an outside vendor to produce copies of the requested records, then the PRRC must charge the requestor for the actual production costs charged by the vendor to the University.
- 5.9 Payment for Production Costs
- 5.9.1 The PRRC has the discretion to determine how payment for production costs must be made (e.g., cash, check, credit/debit card).
- 5.9.2 As stated in Section 5.4, when estimated production costs are more than fifty dollars (\$50), the PRRC must require pre-payment in full of the estimated production costs before beginning the process of producing the requested records.
- 5.9.3 The PRRC must require full payment of the actual production costs before copies of public records are delivered or otherwise made available to the requestor. If the actual production costs exceeds the estimated production costs, then the PRRC must collect the difference

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between the actual production costs and the estimated production costs before copies of public records are delivered or otherwise made available to the requestor. If the actual production costs are less than the estimated production costs, then the PRRC must refund the difference between the estimated production costs and the actual production costs when copies of public records are delivered or otherwise made available to the requestor.

- 5.9.4 When actual production costs are more than fifty dollars (\$50.00), then the PRRC must ensure that the production costs collected by the PRRC are distributed to the appropriate University units in proportion to the costs incurred by each unit in responding to the request.

5.10 Aggregation of Frequent and Multiple Requests

- 5.10.1 The University will aggregate record requests in accordance with the policy on Reasonable Charges for Frequent and Multiple Requests promulgated by the Office of Open Records Counsel (**Appendix E**) when more than (4) requests are received within a calendar month (either from a single individual or a group of individuals determined to be working in concert).

- 5.10.2 The level at which records requests will be aggregated is by campus or institute.

- 5.10.3 The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the Office of Open Records Counsel.

- 5.10.4 Routinely released and readily accessible records excluded from aggregation include, but are not limited to:

- (a) Materials for meetings of the Board of Trustees and Board committees; and
- (b) Other records determined by the PRRC.

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SECTION 6. CONFIDENTIALITY EXCEPTIONS

6.1 Exceptions to the right to inspect or copy public records include, without limitation: (1) records made confidential by the TPRA itself or by other state law; and (2) records the University is required to keep confidential by federal statute or regulation as a condition for receipt of federal funds or for participation in a federally funded program.

6.2 **Appendix F** identifies common exceptions to the right to inspect or copy public records in the custody of the University.

SECTION 7. APPENDICES

Appendix A: [BT0014-Appendix A - Identification of Public Records Request Coordinators.pdf](#)

Appendix B: [BT0014-Appendix-B-Public-Records-Request-Form.pdf](#)

Appendix C: [BT0014-Appendix-C-Response-Form.pdf](#)

Appendix D: [BT0014-Appendix-D-Estimate-Production-Costs.pdf](#)

Appendix E: [BT0014-Appendix-E-Reasonable-Charges-State-of-Tenn.pdf](#)

Appendix F: [BT0014-Appendix-F-Confidentiality-Exceptions.pdf](#)

History:

Adopted	6/22/2017 to be effective 6/26/2017
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