

Open Records Request Training

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**Records Management
Secretary of State Tre Hargett**

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Why Open Records Matter

- State Records belong to citizens of Tennessee.
 - Open Records Ensure government accountability and transparency by providing Tennessee citizens access to public records.
 - The transparency and access provided by open records is what helps build civic good will and faith in institutions.
 - Holds government agencies accountable when they make mistakes.
- It's the law!
 - The Tennessee Public Records Act, compiled in Title 10, Chapter 7, Part 5 of the Tennessee Code gives the public the right to inspect and request records unless they are exempt by statute.

Public Record Definition

- “Public record or records’ or ‘state record or 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 agency.” T.C.A. § 10-7-301(6)
- The test for determining whether a record is public is “whether it was made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.” *Griffin v. City of Knoxville*, 821 S.W. 2d 921, 924 (Tenn. 1991).

And you may ask yourself...

What you need to know as Records Officer

Who is responsible for Public Records Request?

- Agency Public records request should be submitted through your agency's Public Records Request Coordinator.
- A Public Records Request Coordinator is:
 - any individual within a government agency responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the law.
- Yes, your agency has a Public Records Request Coordinator.
 - It is required by law in accordance with T.C.A 10-7-503(a)(2)(B)
- Just because you are the Records Officer does not mean that you are the Public Records Request Coordinator.
- If you are not sure how to contact your agency's Public Records Request Coordinator, check your agency's Open Records Policy.

Does my agency need to keep copies made for public records request under an RDA?

- No, Copies of records generated in response to open records request are just that, copies.
- They can be destroyed when no longer administratively needed.
- However, the Public Record Request themselves are records and must be maintained in accordance with [RDA SW35 – Open Records Request](#).

Can my Agency Ignore or Destroy Records In Response to a Public Records Request?

- No.
- Do Not Do That.
- It Is Illegal!
- Your agency will be violating the Tennessee Open Records Act and could face legal repercussions.

What is my agency's Open Record Policy?

- All agencies are required by law to have one.
- All Open Records Policies must include:
 - The process for making requests to inspect public records or receive copies of public records
 - The process for responding to requests, including redaction practices
 - A statement of any fees charged for copies of public records and the procedures for billing and payment
 - The name or title and the contact information of the individual or individuals within such governmental entity designated as the public records request coordinator
- Policies are specific to each agency, but most are based on the Model Open Records Policy provided by the Office of Open Records.

Records Kept by a Vendor

- Records created and maintained by a vendor in the providing of services on behalf of the public agency are considered public records.
- T.C.A 10-7-503(a)(6) “A governmental entity is prohibited from avoiding its disclosure obligations by contractually delegating its responsibility to a private entity.”

Tips for Staying Organized

- Track records requests through a spreadsheet, noting the date requested, items provided, legal counsel review/redaction necessary, and date records provided.
- Keep redacted copies for a time after in case there are additional requests.
- Maintain folders on an appropriate drive and organized by year.

Model Records Policy

Major Points of Model Policy

Basic Outline of Policy

- Legal requirement
- Hours of operation
- Contact persons for questions regarding application

Definitions

- Records Custodian
- Public Records
- Public Records Request Coordinator (PRRC)
- Requestor

Requesting Access

- Requests to be made to agency PRRC.
- Requests may be made orally or in writing. Agency may require requests for copies in writing only.
- Decide if proof of TN citizenship is required.
- Describe what commonly requested items are available online.

Model Policy part 2

Responding to Requests

- Public Records Request Coordinator actions
- Records Custodian responsibilities
- Redaction Process

Inspection of Records

- No Charge for inspection of open records
- Location of inspection
- Notice of need for appointment or if an alternate location is required

Model Policy part 3

Copies of Records

- Prompt response is required.
- Location copies are available for pick-up.
- Outline of process to deliver via U.S. Postal Service.
- If a requestor is allowed to make copies with personal equipment.

Fees & Payment Procedures

- Fees are not to be used to hinder access.
- Estimate will be provided to requestors and pre-payment may be required.
- When fees may be waived if under a set cost.
- Fee schedule and payment methods

Frequently asked questions about open records

- Can Open Records Request be made over the phone or by email?
- Can agencies charge to inspect public records?
- How does my agency know how much to charge for copies?
- May I destroy records past the retention date if a public records request is made? No, if you have the records at the time of the request you must provide them.

Contact Information

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