

Jule Bryson
Cumberland County Clerk

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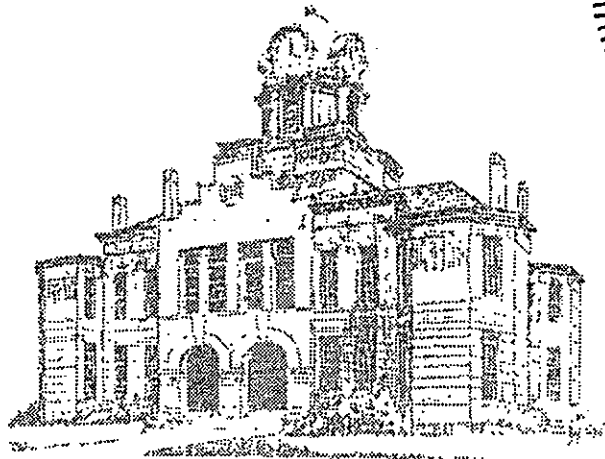
STATE OF TENNESSEE, CUMBERLAND COUNTY

I, Jule Bryson, County Clerk of Cumberland County, Tennessee, do hereby certify that the foregoing copy of Resolution 12-2016-2, to approve and adopt an Open Records Policy, is a full, true, and perfect copy of same as appears in Quarterly Minutes Book Number 54, now on file in my office.

Witness my hand and official seal at office in Crossville, Tennessee, this 20th day of December 2016.

Jule Bryson

Jule Bryson
Cumberland County Clerk



RESOLUTION NO : 12-2016-2

Cumberland County, Tennessee

RESOLUTION TO APPROVE AND ADOPT OPEN RECORDS POLICY

WHEREAS the State of Tennessee requires each County to adopt an Open Records Policy; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS of Cumberland County, Tennessee, meeting in regular session on this the 19th day of December, 2016, hereby adopts the attached Open Records Policy and abolishes any previous open records policies.


Adopted this 19th day of December, 2016.

SPONSOR:




COUNTY COMMISSIONER

APPROVED:



COUNTY MAYOR

ATTEST:



COUNTY CLERK

On motion of Commissioner Rebecca Stone, second by Commissioner David Gibson, moved to adopt resolution 12-2016-2.

The motion to adopt resolution 12-2016-2 carried by a roll call vote of 17 ayes from the Commission present.

Cumberland County, TN, Policy on Open Records

The Public Records Commission of Cumberland County, Tennessee, is charged with overseeing the creation and preservation of any and all Cumberland County Governmental Public Records. It is further charged with assuring the county legislative body that they meet records management and archives management standards and satisfy the needs of the county and its citizens. (CTAS 1150)

A. The Cumberland County Government Agencies will make Open Records available to the requesting public pursuant to the Tennessee Public Records Act 10-7-503.

1. Tennessee's law on Citizens' access to open public records, which is commonly referred to as the Tennessee Public Records Act (TPRA) is found in Tennessee Code Annotated Sections 10-7-501 et seq. This establishes a presumption that public records will be "open" or that access to the record, whether for inspection or for receipt of a copy, will be granted during agency business hours "Unless otherwise provided by law."

2. Section 10-7-503 requires the custodian of the record to respond promptly to a Tennessee citizen's request to the record. The request must "be sufficiently detailed" to allow the custodian to identify the specific records.

B. The Cumberland County Government Agencies will comply with the current Open Public Records policy as mandated by Tennessee State Legislature.

1. Each Cumberland County government agency director will familiarize themselves with the current statutes Tenn. Code Ann. 10-7-503 and 504 which specify the Open Record statutes and define records that are considered confidential. The director will also be aware of the many other statutory exceptions to the Tennessee Open Records Act. Each director will receive and review a copy of the list of exceptions for those to be found in their records.

2. Each Cumberland County government agency director will ensure that each employee that interacts with the general public or that receives requests by mail, e-mail or telephone has an understanding of TCA 10-7-503 and 504, as well as other exemptions inherent in the records of that department.

3. Each Cumberland County government agency director will keep available to the requesting public a copy of the county Open Records Policy and the above statutes.

4. Each Cumberland County government agency director will establish a schedule of charges for the material requested.

a. Under the TPRA, a custodian is forbidden from imposing a fee to view an open public record or requiring a request to view a record to be made in writing, unless required to do so by another provision of law.

b. The agency director should establish a schedule of fees that will be presented to the requestor prior to any expense being incurred.

c. The agency may impose a nominal fee for each black and white photocopy of a record. Duplex requests may be charged per side.

d. In the event of requests for overly large files or if there is other labor intensive acts required to produce the requested material, the agency may assess the reasonable costs in the

manner established by the office of open records counsel pursuant to section 8-4-604 . The agency may require a requestor to pay for the custodian's reasonable costs incurred in producing the requested materials and to and/or impose an hourly fee that is comparable to the hourly salary of the custodian involved. The cost of mailing fees, delivery fees and other additional costs will be added to the charge for the record.

C. The record custodian will make the requested records available as promptly as possible in accordance with TCA 10-7-503. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall, within seven business days; **(i)** Make the information available to the requestor; **(ii)** Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial; or **(iii)** Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce the record or information.

1. Photo ID required at time of request.

2. The record custodian will determine the specific record being requested.

3. The record custodian will retrieve the specific record and review it prior to bringing it to the requestor.

a. The record custodian will determine the scope of the record requested and determine if the entire record is in this location or is part of it in storage.

b. The record custodian will determine the amount of time involved in retrieving and preparing the record for viewing, and estimate the cost to photocopy it.

c. The record custodian will review the record for confidential information. If any found, the record will be photocopied, the information redacted on the copy, and a copy of this page made for the requestor. The first copied page with redaction added may be kept in the file for future requests.

d. If certain of the requested records are on line, the requestor may be directed to this source of information. The requestor still has the right to personally view the original record.

e. The record custodian will appraise the requestor of the estimated cost of reproducing and delivering the record prior to any action, other than viewing the record, is taken.

D. It is understood that the Freedom of Information Act, passed in 1966 and amended in 1974, relates to agencies of the federal government, and does not apply to state and county created records.

E. Changes in Tennessee Code will supersede the above policy.

Tenn. Code Ann. § 10-7-503

TENNESSEE CODE ANNOTATED
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*** Current through the 2016 Regular Session and the 2nd Extraordinary Session of the
109th Tennessee General Assembly ***

Title 10 Public Libraries, Archives and Records
Chapter 7 Public Records
Part 5 Miscellaneous Provisions

Tenn. Code Ann. § 10-7-503 (2016)

**10-7-503. Records open to public inspection -- Schedule of reasonable charges --
Costs.**

(a) (1) As used in this part and title 8, chapter 4, part 6:

(A) "Public record or records" or "state record or records":

(i) 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; and

(ii) Does 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 or state record;

(B) "Public records request coordinator" means any individual within a governmental entity whose role it is to ensure that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with § 10-7-503(a)(2)(B); and

(C) "Records custodian" means any office, official, or employee of any governmental entity lawfully responsible for the direct custody and care of a public record.

(2) (A) All state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, 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 law.

(B) The custodian of a public record or the custodian's designee shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall, within seven (7) business days:

(i) Make the information available to the requestor;

(ii) Deny the request in writing or by completing a records request response form developed by the office of open records counsel. The response shall include the basis for the denial; or

(iii) Furnish the requestor a completed records request response form developed by the office of open records counsel stating the time reasonably necessary to produce the record or information.

(3) Failure to respond to the request as described in subdivision (a)(2) shall constitute a denial and the person making the request shall have the right to bring an action as provided in § 10-7-505.

(4) This section shall not be construed as requiring a governmental entity to sort through files to compile information or to create or recreate a record that does not exist. Any request for inspection or copying of a public record shall be sufficiently detailed to enable the governmental entity to identify the specific records for inspection and copying.

(5) Information made confidential by state law shall be redacted whenever possible, and the redacted record shall be made available for inspection and copying. The redaction of confidential information shall not constitute the creation of a new record. Costs associated with redacting records, including the cost of copies and staff time to provide redacted copies, shall be borne as provided by law.

(6) A governmental entity is prohibited from avoiding its disclosure obligations by contractually delegating its responsibility to a private entity.

(7) (A) A records custodian may not require a written request or assess a charge to view a public record unless otherwise required by law; however, a records custodian may require a request for copies of public records to be in writing or that the request be made on a form developed by the office of open records counsel. The records custodian may also require any citizen making a request to view a public record or to make a copy of a public record to present a photo identification, if the person possesses a photo identification, issued by a governmental entity, that includes the person's address. If a person does not possess a photo identification, the records custodian may require other forms of identification acceptable to the records custodian.

(B) [Deleted by 2016 amendment.]

(C) (i) A records custodian may require a requestor to pay the custodian's reasonable costs incurred in producing the requested material and to assess the reasonable costs in the manner established by the office of open records counsel pursuant to § 8-4-604.

(ii) The records custodian shall provide a requestor an estimate of the reasonable costs to provide copies of the requested material.

(b) The head of a governmental entity may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to maintain the confidentiality of records concerning adoption proceedings or records required to be kept confidential by federal statute or regulation as a condition for the receipt of federal funds or for participation in a federally funded program.

(c) (1) Except as provided in § 10-7-504(g), all law enforcement personnel records shall

be open for inspection as provided in subsection (a); however, whenever the personnel records of a law enforcement officer are inspected as provided in subsection (a), the custodian shall make a record of such inspection and provide notice, within three (3) days from the date of the inspection, to the officer whose personnel records have been inspected:

- (A) That such inspection has taken place;
- (B) The name, address and telephone number of the person making such inspection;
- (C) For whom the inspection was made; and
- (D) The date of such inspection.

(2) [Deleted by 2016 amendment.]

(3) Any person making an inspection of such records shall provide such person's name, address, business telephone number, home telephone number, driver license number or other appropriate identification prior to inspecting such records.

(d) (1) All records of any association or nonprofit corporation described in § 8-44-102(b)(1)(E)(i) shall be open for inspection as provided in subsection (a); provided, that any such organization shall not be subject to the requirements of this subsection (d) so long as it complies with the following requirements:

(A) The board of directors of the organization shall cause an annual audit to be made of the financial affairs of the organization, including all receipts from every source and every expenditure or disbursement of the money of the organization, made by a disinterested person skilled in such work. Each audit shall cover the period extending back to the date of the last preceding audit and it shall be paid out of the funds of the organization;

(B) Each audit shall be conducted in accordance with the standards established by the comptroller of the treasury pursuant to § 4-3-304(9) for local governments;

(C) The comptroller of the treasury, through the department of audit, shall be responsible for ensuring that the audits are prepared in accordance with generally accepted governmental auditing standards, and determining whether the audits meet minimum audit standards which shall be prescribed by the comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until such audit has been approved by the comptroller of the treasury;

(D) The audits may be prepared by a certified public accountant, a public accountant or by the department of audit. If the governing body of the municipality fails or refuses to have the audit prepared, the comptroller of the treasury may appoint a certified public accountant or public accountant or direct the department to prepare the audit. The cost of such audit shall be paid by the organization;

(E) Each such audit shall be completed as soon as practicable after the end of the fiscal year of the organization. One (1) copy of each audit shall be furnished to the organization and one (1) copy shall be filed with the comptroller of the treasury. The copy of the comptroller of the treasury shall be available for public inspection. Copies of each audit shall also be made available to the press; and

(F) In addition to any other information required by the comptroller of the treasury,

audit shall also contain:

(i) A listing, by name of the recipient, of all compensation, fees or other remuneration paid by the organization during the audit year to, or accrued on behalf of, the organization's directors and officers;

(ii) A listing, by name of recipient, of all compensation and any other remuneration paid by the organization during the audit year to, or accrued on behalf of, any employee of the organization who receives more than twenty-five thousand dollars (\$25,000) in remuneration for such year;

(iii) A listing, by name of beneficiary, of any deferred compensation, salary continuation, retirement or other fringe benefit plan or program (excluding qualified health and life insurance plans available to all employees of the organization on a nondiscriminatory basis) established or maintained by the organization for the benefit of any of the organization's directors, officers or employees, and the amount of any funds paid or accrued to such plan or program during the audit year; and

(iv) A listing, by name of recipient, of all fees paid by the organization during the audit year to any contractor, professional advisor or other personal services provider, which exceeds two thousand five hundred dollars (\$2,500) for such year. Such listing shall also include a statement as to the general effect of each contract, but not the amount paid or payable thereunder.

(2) This subsection (d) shall not apply to any association or nonprofit corporation described in § 8-44-102(b)(1)(E)(i), that employs no more than two (2) full-time staff members.

(3) This subsection (d) shall not apply to any association, organization or corporation that was exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(3), as of January 1, 1998, and which makes available to the public its federal return of organization exempt from income tax (Form 990) in accordance with the Internal Revenue Code and related regulations.

(e) All contingency plans of law enforcement agencies prepared to respond to any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident shall not be open for inspection as provided in subsection (a).

(f) All records, employment applications, credentials and similar documents obtained by any person in conjunction with an employment search for a director of schools or any chief public administrative officer shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. For the purposes of this subsection (f), the term "person" includes a natural person, corporation, firm, company, association or any other business entity.

(g) No later than July 1, 2017, every governmental entity subject to this section shall establish a written public records policy properly adopted by the appropriate governing authority. The public records policy shall not impose requirements on those requesting records that are more burdensome than state law and shall include:

(1) The process for making requests to inspect public records or receive copies of public

records and a copy of any required request form;

(2) The process for responding to requests, including redaction practices;

(3) A statement of any fees charged for copies of public records and the procedures for billing and payment; and

(4) The name or title and the contact information of the individual or individuals within such governmental entity designated as the public records request coordinator.

HISTORY: Acts 1957, ch. 285, § 1; T.C.A., § 15-304; Acts 1981, ch. 376, § 1; 1984, ch. 929, §§ 1, 3; 1991, ch. 369, § 7; 1993, ch. 475, § 1; 1998, ch. 1102, §§ 2, 4; 1999, ch. 514, § 1; 2000, ch. 714, § 1; 2005, ch. 263, § 1; 2007, ch. 425, § 1; 2008, ch. 1179, § 1; 2011, ch. 353, § 1; 2016, ch. 722, §§ 1-4.