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## Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Department of General Services
<b>Division:</b>	Office of General Counsel
<b>Contact Person:</b>	Christy Allen
<b>Address:</b>	W.R. Snodgrass TN Tower, 22 <sup>nd</sup> Floor 312 Rosa L. Parks Avenue - Nashville, Tennessee 37243
<b>Phone:</b>	615-741-5922
<b>Email:</b>	Christy.Allen@tn.gov

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Kandis Deskins
<b>Address:</b>	W.R. Snodgrass TN Tower, 22 <sup>nd</sup> Floor 312 Rosa L. Parks Avenue - Nashville, Tennessee 37243
<b>Phone:</b>	615-253-3966
<b>Email:</b>	Kandis.Deskins@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	W.R. Snodgrass TN Tower, 3 <sup>rd</sup> Floor, Meeting Room G 312 Rosa L. Parks Avenue
Address 2:	
City:	Nashville
Zip:	37243
Hearing Date :	10/3/18
Hearing Time:	10:30 AM <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- ☐ Amendment  
☒ New  
☐ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0690-06-02	Access to Public Records of the Department of General Services
Rule Number	Rule Title

0690-06-02-.01	Purpose and Scope
0690-06-02-.02	Definitions
0690-06-02-.03	Requesting Access to Public Records
0690-06-02-.04	Responding to Public Records Requests
0690-06-02-.05	Inspection or Copies of Records
0690-06-02-.06	Charges, Payment and Waivers
0690-06-02-.07	Aggregation of Frequent and Multiple Requests
0690-06-02-.08	Failure to Inspect Copies

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to [http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines\\_September2016.pdf](http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf).

Chapter 0690-06-02  
Access to Public Records of the Department of General Services

Chapter 0690-06-02 Access to Public Records of the Department of General Services is a new rule.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506

Chapter 0690-06-02  
Access to Public Records of the Department of General Services

New Rule

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0690-06-02-.08 Failure to Inspect Copies

Rule 0690-06-02-.01 Purpose and Scope.

- (1) The purpose of these rules is to establish procedures regarding public records requests received by the State of Tennessee Department of General Services, and to provide economical and efficient access to Public Records subject to the Tennessee Public Records Act in Tennessee Code Annotated §10-7-501, et seq.
- (2) This rule shall be applied consistently throughout the various offices and divisions of the Department of General Services.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506.

Rule 0690-06-02-.02 Definitions.

- (1) "Department" means the State of Tennessee Department of General Services.
- (2) "Office of Open Records Counsel" or "OORC" means the State of Tennessee Office of Open Records Counsel, established pursuant to T.C.A. §8-4-601 et seq., or any successor office or entity.
- (3) "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 agency, not otherwise protected by law or exempt from disclosure under the TPRA.
- (4) "Public Records Request Coordinator" or "PRRC" means any individual within the Department of General Services whose role it is to ensure public records requests are routed to the appropriate Records Custodian and are fulfilled in accordance with the TPRA.
- (5) "Records Custodian" means any office, official or employee of the Department of General Services 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.



- (6) "Requestor" is an individual or citizen seeking access to a public record, whether it is for inspection or duplication.
- (7) "TPRA" is the Tennessee Public Records Act in T.C.A. §10-7-501, et seq.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506.

Rule 0690-06-02-.03 Requesting Access to Public Records.

- (1) A Requestor may request access to Public Records maintained and received by the Department by making a request in person, by telephone, fax, mail, email or online, depending on whether the Requestor is asking to inspect or receive copies of the Public Records. All public record requests should be directed to the Department's PRRC. Any employee of the Department who receives what they believe may be a public records request, formal or informal, shall immediately notify the PRRC.
- (2) Requests for inspection are not required to be made in writing.
- (3) An in-person request to inspect a Public Record shall be made during the Department's regular business hours from 8:00AM to 4:30PM Central Time, Monday through Friday, except for holidays.
- (4) A Requestor shall make a request for copies of Public Records in writing to the PRRC. When submitting a written request for copies, a Requestor may, but is not required to, use the OORC Public Records Request Form, which is located on the Tennessee Comptroller of the Treasury website on the OORC page.
- (5) Any request for inspection or copying of a Public Record shall be sufficiently detailed to enable the Department to identify the specific records for inspection or copying.

Department of General Services  
Attn: Public Records Request Coordinator  
312 Rosa L. Parks Avenue, TN Tower, 22<sup>nd</sup> Floor  
Nashville, TN 37243  
p: (615) 741-2081 f: (615)-532-8594  
[General.Services@tn.gov](mailto:General.Services@tn.gov)

[https://stateoftennessee.formstack.com/forms/dgs\\_public\\_records\\_request](https://stateoftennessee.formstack.com/forms/dgs_public_records_request)

- (6) At the same time that a Requestor makes a request to inspect or receive copies of a Public Record, the Requestor shall provide proof of Tennessee citizenship, which is required as a condition that must be met prior to inspecting or receiving copies of Public Records. A Requestor shall show proof of Tennessee citizenship by presenting his or her government-issued photo identification that includes the Requestor's address. To the extent that the Requestor cannot provide government-issued photo identification, the PRRC may accept an alternative form of identification. The PRRC may waive the requirement of having the Requestor present government-issued photo identification if the Requestor has previously provided proof of Tennessee citizenship or if it can be verified that the Requestor is a Tennessee citizen by information contained in the public domain.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506.

Rule 0690-06-02-.04 Responding to Public Records Requests.

- (1) Upon receipt of a public records request, the PRRC will review the request and make a determination of the following:
  - (a) If the Requestor provided evidence of Tennessee citizenship pursuant to rule 0690-06-02-.03;

- (b) If the records requested are described with sufficient specificity to identify them;
  - (c) If the Department is the custodian of the Public Records;
  - (d) If the records requested, or any of their contents, are not subject to disclosure based on applicable federal or state laws or rules; and
  - (e) If applicable, the Department will inform the Requestor, in writing, of the reasonable copying and labor charges to produce copies and any determinations made regarding aggregation of multiple or frequent requests.
- (2) The PRRC, in conjunction with the Records Custodian, shall make available any Public Record not specifically exempt from disclosure.
- (a) In the event it is not practicable to promptly provide requested records 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 subject to inspection; to redact records; or for other similar reasons, then within seven (7) business days of a public records request, the PRRC shall:
    - 1. Make the Public Record available to the Requestor;
    - 2. Deny the request in writing, including the basis for the denial; or
    - 3. Furnish the Requestor written explanation of the time reasonably necessary to produce the Public Record.
- (3) If appropriate, the Department will deny the request in writing, providing the ground for denial which may include, but shall not be limited to:
- (a) The Requestor is not, or has not presented evidence, of being a Tennessee citizen;
  - (b) The request lacks specificity;
  - (c) The Public Record is not subject to disclosure under the TPRA. The provision in the law making the Public Record not subject to public disclosure shall be identified in the written denial;
  - (d) The Department is not the custodian of the requested Public Record;
  - (e) The records do not exist; or
  - (f) Any other legal ground for denial.
- (4) If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity to which the public records request should be made, the PRRC will advise the Requestor of the correct governmental entity and the PRRC for that entity, if known.
- (5) If a Public Record contains information not subject to disclosure under the TPRA, the Department shall prepare a redacted copy of the Public Record prior to providing access. Whenever a redacted record is provided, the Department should provide the Requestor with the basis for redaction.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506.

Rule 0690-06-02-.05 Inspection or Copies of Records.

- (1) There shall be no charge to inspect Public Records. In order to inspect Public Records pursuant to a public records request, the Requestor must schedule an appointment with the PRRC to



inspect the requested records.

- (2) The Requestor will be allowed to make copies of personally inspected Public Records with his or her own personal equipment; however, the Requestor will not be allowed to connect any personal equipment directly to a Department computer, including, but not limited to, utilizing a flash drive, in order to make copies of Public Records.
- (3) If the Department determines to fulfill the request, the Department shall promptly respond to a public records request for copies of Public Records by making the copies available to the Requestor in the following manner:
  - (a) For pickup at a location specified by the PRRC;
  - (b) By regular mail delivery through the United States Postal Service to the Requestor's home address or other acceptable address within Tennessee; or
  - (c) By electronic delivery of copies to an email address provided by the Requestor. Copies will be delivered by email to an email address designated by the Requestor.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506.

Rule 0690-06-02-.06 Charges, Payment and Waivers.

- (1) The Department shall assess charges for the copying and labor required to produce copies of the requested Public Records based on the most current version of the Schedule of Reasonable Charges, issued by the OORC, with the exception that the Department's labor threshold will be two (2) hours. The Schedule of Reasonable Charges is available on the Tennessee Comptroller of the Treasury's website on the OORC page.
- (2) The Department shall provide a Requestor with a written, itemized estimate of the copying or labor charges prior to producing copies of records. The Requestor must agree, in writing, to pay the charges prior to the Department producing the Public Records. Payment in advance will be required before producing requested Public Records.
- (3) When charges for copies and labor do not exceed \$10.00, the charges may be waived by the PRRC.
- (4) Payment of charges shall be payable to the Department of General Services in the form of a cashier's check, money order, or other reliable means as determined by the Department.
- (5) Should the Department use an outside vendor to compile, review or redact Public Records in response to a public records request, then the Department shall charge the Requestor the vendor's costs.
- (6) The Commissioner, or the Commissioner's designee, may waive or reduce any part of the fees calculated under these rules upon a written determination that such waiver or reduction would be in the best interests of the public.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506.

Rule 0690-06-02-.07 Aggregation of Frequent and Multiple Requests.

- (1) The Department will aggregate record requests in accordance with the Reasonable Charges for Frequent and Multiple Requests 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 to be working in concert. Records requests will be aggregated at the Department level.
- (2) 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 OORC.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506.

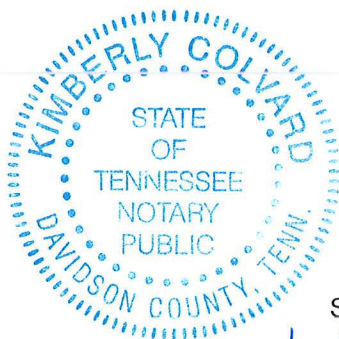
Rule 0690-06-02-.08 Failure to Inspect Copies.

If a Requestor makes two (2) or more requests to view a Public Record within a six-month period and, for each request, the Requestor fails to view the Public Record within fifteen (15) business days of receiving notification that the record is available to view, the Department 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 view the Public Record unless the Department determines failure to view the Public Record was for good cause.

Authority: T.C.A. §§4-3-1102, 4-4-103, 10-7-503 and 10-7-506.

A handwritten signature in blue ink, appearing to be "Michael", is located in the lower-left quadrant of the page.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: 8/13/18

Signature: Meryl Harris

Name of Officer: Meryl Harris

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: August 13, 2018

Notary Public Signature: Kim Colvard

My commission expires on: March 8, 2021

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Filed with the Department of State on: 8/13/18

Tre Hargett

Tre Hargett  
Secretary of State

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