



JUSTIN P. WILSON  
Comptroller

JASON E. MUMPOWER  
Chief of Staff

October 16, 2018

Ms. Deborah Fisher  
Executive Director  
Tennessee Coalition for Open Government  
P.O. Box 22248  
Nashville, Tennessee 37202

Re: Informal Advisory Opinion

Ms. Fisher:

Thank you for your request for an informal advisory opinion regarding a citizen's right to make copies of public records during inspection pursuant to Tenn. Code Ann. § 10-7-506.

Tenn. Code Ann. § 10-7-506(a) provides as follows:

In all cases where any person has the right to inspect any such public records, such person shall have the right to take extracts or make copies thereof, and to make photographs or photostats of the same while such records are in the possession, custody and control of the lawful custodian thereof or such custodian's authorized deputy; provided, that the lawful custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs or photostats.

This provision of the Tennessee Public Records Act ("TPRA") allows a governmental entity to establish rules governing the copying of public records during inspection. *Tennessean v. Electric Power Board of Nashville*, 979 S.W.2d 297 (Tenn. 1998). Rules governing the copying of public records are permissible so long as they do not substantially inhibit a citizen's right to access public records. *Id.* at 305. See also *Jetmore v. Metropolitan Gov't of Nashville and Davidson Co.*, 2017 WL 4570413 (Tenn. Ct. App. October 12, 2017) (Governmental entities may adopt rules governing the making of copies, but such rules cannot impose more conditions on a citizen's right of access than permitted by the TPRA.).

As explained by the Tennessee Supreme Court in the *Tennessean* case, "limiting an agency to rules that govern only the actual 'making' of the extracts, copies, photographs or photostats is consistent with the legislative policy in favor of the fullest possible public access." *Tennessean*, 979 S.W.2d at 305. Accordingly, Tenn. Code Ann. § 10-7-506(a) allows a governmental entity to adopt and enforce reasonable rules limiting how a citizen may make copies of public records during



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inspection, but such rules should not otherwise impermissibly infringe upon a citizen's right of access provided under the TPRA.

Given the various circumstances under which a governmental entity may, or may not, want to limit how a requestor makes copies, the Model Public Records Policy promulgated by our office leaves it to the discretion of governmental entities to indicate under what circumstances a governmental entity will allow a requestor to make copies with their own devices. As explained above, any rules governing how a citizen may make copies of records during inspection should not substantially inhibit a citizen's right of access as otherwise provided by the TPRA. *Tennessean*, 979 S.W.2d at 305.

Sincerely,

A handwritten signature in blue ink, appearing to read "LP", is written over the word "Sincerely,".

Lee Pope  
Open Records Counsel