

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

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

(B) "Public record or records" or "state record or records" 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.

(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 or public official to sort through files to compile information; however, a person requesting the information shall be allowed to inspect the nonexempt records.

(5) This section shall not be construed as requiring a governmental entity or public official to create a record that does not exist; however, the redaction of confidential information

from a public record or electronic database shall not constitute a new record.

(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) Any request for inspection or copying of a public record shall be sufficiently detailed to enable the records custodian to identify the specific records to be located or copied.

(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) Information made confidential by this chapter shall be redacted whenever possible, but

the costs associated with redacting records or information, including the cost of copies and staff time to provide redacted copies, shall be borne as provided by current law.

(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, each 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.

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.