

Texas Tech University System

Regulation 07.01

Public Records

Approved April 18, 2019

Next Scheduled Review: April 2024

1. Purpose

- a. The Texas Tech University System (“the System”) is committed to compliance with the letter and the spirit of the Texas Public Information Act (“the Act”) (Texas Government Code, Chapter 552). This Regulation sets out the steps involved in the release of public information and collection of any charges for copies if a request should arise pursuant to the Act. ***Texas Government Code § 552.001, et seq.**

2. General Information

- a. The Chancellor and the component institutions’ Presidents have designated the Vice Chancellor and General Counsel for the System as the designated Public Information Act Officer for all public records for their institution. The Vice Chancellor and General Counsel is authorized to delegate the duties of the Public Information Act Officer to an attorney(s) within the Office of General Counsel.
- b. A request for public and/or open records must be made in writing and should specify the institution and the records or information sought. E-mailed requests must be sent to publicinfo@ttu.edu to be considered valid. If a request is received by any employee of the System or any of its components, it shall be forwarded immediately to the Office of General Counsel or by email to publicinfo@ttu.edu. All requests and any questions regarding the Act should be directed to the Office of General Counsel at (806) 742-2155.
- c. A subpoena duces tecum or a discovery request that is issued in compliance with a statute or a rule of civil or criminal procedure is not considered to be a request for information under the Act and is not subject to this procedure. A request for documents related to an institutional hearing is a request for information under the Act.
- d. The appropriate department, at each institution, responsible for maintaining and storing the records requested must find and transmit the requested documents to the Office of General Counsel immediately upon request. The assessment of any charges shall be in accordance with Section 2.b. of this Regulation.
- e. The Office of General Counsel will determine whether the information is public and releasable, nonpublic and not releasable, or whether an Attorney General Opinion should be requested.

- f. If the information is deemed to be public, the Office of General Counsel will determine whether the records will be made available for inspection and copying by the requestor or reproduced and sent directly to the requesting party and any costs associated with the release.
- g. Failure to comply with the Act and with this Regulation could expose the System, its components, and individual employees to sanctions, including civil and criminal liability. Employees may also face disciplinary action by the System or their institution. Actions that may be considered a violation of the Act or this Regulation include, but are not limited to, the destruction, removal, or alteration of public information; the failure or refusal to provide access to or copies of public information; and the intentional disclosure of information considered confidential under the Act.
- h. System and component institutional employees are not authorized to submit public information requests to the System or its component institutions while acting in their official capacity. Any public information request made by an employee must be submitted in that employee's individual capacity as a private citizen.
- i. The Office of General Counsel will report to the Attorney General each month for the System and each component institution, the information the Attorney General requires regarding:
 - i. the number and nature of requests for information the state governmental body processes under this chapter in the period covered by the report; and
 - ii. the cost to the state governmental body in that period in terms of capital expenditures and personnel time of:
 - 1. responding to requests for information under this chapter; and
 - 2. making information available to the public by means of the internet or another electronic format. ***Texas Government Code, § 552.010.**

3. Charges and Requestor Information

- a. The System's notice informing the public of their basic rights and responsibilities under the Act can be found in Appendix A. ***Texas Government Code § 552.205.**
- b. All charges for open records requests will be in accordance with Chapter 70 of the Texas Administration Code. See Appendix B for additional cost information. If a request for a copy of public information or a request to inspect information will result in a charge of \$40 or higher, the Office of General Counsel will provide the requestor with a written itemized statement. ***Texas Government Code § 552.2615.**
- c. If it is unclear what information is being requested, the Office of General Counsel may ask the requestor to clarify his or her request. If a large amount of information has been requested, the requestor may be requested to narrow the scope of the request. However, in accordance with the Act, System or institution employees should not ask why the information is being requested or about its intended usage.
- d. If requested public information is mingled with confidential information, all confidential information must be deleted/redacted before the public information is made available to the

- requestor. The requestor may be charged for deleting/redacting confidential information only in accordance with this Regulation.
- e. The System is composed of multiple component institutions. In calculating the number of business days, the business days of the component institution maintaining or storing the information requested shall be used.
 - f. After information has been released under the Act, the System is not required to provide the requestor with subsequent updates, corrections, or notice of a change in status of the person to whom the information pertains.
 - g. The charges outlined herein do not apply to any publication that is compiled and printed by or for the System for public dissemination. In such case, the System may determine the appropriate charge, if any, for providing the publication.
 - h. The Act provides that all information collected, assembled, or maintained by governmental bodies is public information and available to the public during normal business hours, unless the information falls within certain exceptions specified in the Act. Many of those exceptions are summarized below:
 - i. information that is confidential under other specific statutes or by judicial decisions;
 - ii. certain personal information that would constitute a clearly unwarranted invasion of personal privacy (employees who wish to protect from disclosure their home address, home telephone numbers, and whether they have family members, may do so by contacting Human Resources. Social security numbers are protected from disclosure);
 - iii. certain information relating to litigation if the litigation is pending or reasonably anticipated on the date the request is made;
 - iv. attorney-client privileged documents or attorney work product;
 - v. information relating to competition or bidding;
 - vi. information relating to the location or price of property before public announcement or award of contract;
 - vii. certain legislative documents;
 - viii. certain law enforcement records;
 - ix. certain commercial or financial information;
 - x. certain memoranda containing advice, opinions, or recommendations on policy matters;
 - xi. certain information relating to regulation of financial institutions or securities;
 - xii. geological or geophysical information;
 - xiii. most student records;
 - xiv. most birth and death records;
 - xv. most audit work papers;
 - xvi. certain addresses, telephone numbers, social security numbers, and personal family information;
 - xvii. official prescription forms;
 - xviii. photographs of peace officers;
 - xix. certain rare books and original manuscripts;
 - xx. certain documents held for historical research;
 - xxi. certain test items;

- xxii. names of applicants for the chief executive officer of an institution of higher education;
 - xxiii. certain library records;
 - xxiv. certain audits;
 - xxv. names of applicants for superintendent of public school districts;
 - xxvi. certain information submitted by a potential vendor or contractor;
 - xxvii. certain motor vehicle records;
 - xxviii. certain economic development information; and crime victim information.
- i. Pursuant to **Texas Government Code, § 552.275**, the System has established a time limit on the amount of time personnel of the System and/or the System's component institutions are required to spend producing public information for inspection or duplication by a requestor or providing copies of public information to a requestor without recovering its costs attributed to that personnel time. The time limit which has been established by the System shall be 36 hours per fiscal year. Requestors who exceed the 36-hour time limit shall be required to pay all costs attributable to cost of materials, overhead and personnel time regardless of whether the requestor intends to only inspect the documents. This section does not apply to those requestors exempt by **Texas Government Code, § 552.275**. The office of General Counsel will provide an appropriate statement to requestors, so they are aware of the time they have used.

Contact Office: TTUS Office of General Counsel
(806) 742-2155

Appendix A: The Public Information Act

Appendix B: Charges for Requested Records and Information

APPENDIX A

THE PUBLIC INFORMATION ACT

Texas Government Code, Chapter 552, gives you the right to access government records; and an officer for public information and the officer's agent may not ask why you want them. All government information is presumed to be available to the public. Certain exceptions may apply to the disclosure of the information. Governmental bodies shall **promptly** release requested information that is not confidential by law, either constitutional, statutory, or by judicial decision, or information for which an exception to disclosure has not been sought.

Rights of Requestors

You have the right to:

- Prompt access to information that is not confidential or otherwise protected;
- Receive treatment **equal** to all other requestors, including accommodation in accordance with the Americans with Disabilities Act (ADA) requirements;
- Receive certain kinds of **information without exceptions**, like the voting record of public officials, and other information;
- Receive a **written statement of estimated charges**, when charges will exceed \$40, in advance of work being started and opportunity to modify the request in response to the itemized statement;
- Choose whether to inspect the requested information (most often at no charge), receive copies of the information or both;
- A **waiver** or reduction of charges if the governmental body determines that access to the information primarily benefits the general public;
- Receive a copy of the communication from the governmental body asking the Office of the Attorney General for a ruling on whether the information can be withheld under one of the accepted exceptions, or if the communication discloses the requested information, a redacted copy;
- Lodge a written complaint about overcharges for public information with the Office of the Attorney General. Complaints of other possible violations may be filed with the county or district attorney of the county where the governmental body, other than a state agency, is located. If the complaint is against the county or district attorney, the complaint must be filed with the Office of the Attorney General.

Responsibilities of Governmental Bodies

All governmental bodies responding to information requests have the responsibility to:

- Establish **reasonable procedures** for inspecting or copying public information and inform requestors of these procedures;
- Treat **all** requestors uniformly and shall give to the requestor all reasonable comfort and facility, including accommodation in accordance with ADA requirements;
- Be informed about open records laws and educate employees on the requirements of those laws;
- Inform requestors of the estimated charges greater than \$40 and any changes in the estimates above 20 percent of the original estimate, and **confirm that the requestor** accepts the charges, or has amended the request, in writing before finalizing the request;
- Inform the requestor if the information cannot be provided promptly and set a **date and time to provide it** within a reasonable time;
- Request a **ruling from the Office of the Attorney General** regarding any information the governmental body wishes to withhold, and send a copy of the request for ruling, or a redacted copy, to the requestor;
- **Segregate** public information from information that may be withheld and provide that public information **promptly**;
- Make a good faith attempt to **inform third parties** when their proprietary information is being requested from the governmental body;
- Respond in writing to all written communications from the Office of the Attorney General regarding charges for the information. Respond to the Office of the Attorney General regarding complaints about violations of the Act.

Procedures to Obtain Information

- ✓ Submit a request by mail, fax, e-mail or in person according to a governmental body's reasonable procedures.
- ✓ Include enough description and detail about the information requested to enable the governmental body to accurately identify and locate the information requested.
- ✓ Cooperate with the governmental body's reasonable efforts to clarify the type or amount of information requested.

A. Information to be released

- You may review it promptly, and if it cannot be produced within 10 business days the public information officer will notify you in writing of the reasonable date and time when it will be available.
- Keep all appointments to inspect records and to pick up copies. Failure to keep appointments may result in losing the opportunity to inspect the information at the time requested.

Cost of Records

- **You must respond to any written estimate of charges within 10 business days of the date the governmental body sent it or the request is considered automatically withdrawn.**
- If estimated costs exceed \$100.00 (or \$50.00 if a governmental body has fewer than 16 full time employees) the governmental body may require a bond, prepayment or deposit.
- You may ask the governmental body to determine whether providing the information primarily benefits the general public, resulting in a waiver or reduction of charges.
- Make a timely payment for all mutually agreed charges. A governmental body can demand payment of overdue balances exceeding \$100.00, or obtain a security deposit, before processing additional requests from you.

B. Information that may be withheld due to an exception

- By the 10th business day after a governmental body receives your written request, a governmental body must:
 1. request an Attorney General opinion and state which exceptions apply;
 2. notify the requestor of the referral to the Attorney General; and
 3. notify third parties if the request involves their proprietary information.
- Failure to request an Attorney General opinion and notify the requestor within 10 business days will result in a presumption that the information is open unless there is a compelling reason to withhold it.
- Requestors may send a letter to the Attorney General arguing for release, and may review arguments made by the governmental body. If the arguments disclose the requested information, the requestor may obtain a redacted copy.
- The Attorney General must issue a decision no later than the 45th business day from the day after the attorney general received the request for a decision. The Attorney General may request an additional 10 business day extension.
- Governmental bodies may not ask the Attorney General to "reconsider" an opinion.

To request information from this governmental body, please contact:

By mail to: Tommy Wall
Office of General Counsel
Texas Tech University
P.O. Box 49031
Lubbock, Texas 79409

By e-mail to: tommy.wall@ttu.edu

By fax to: (806) 742-1224

In person at: Administration Building, 15th & Akron, Room # 213

For complaints regarding failure to release public information please contact your local county or district attorney.

- You may also contact the **Office of the Attorney General**, Open Government Hotline, at (512) 478-6736 or toll-free at 1-877-673-6839.
- For complaints regarding overcharges, please contact the **Office of the Attorney General**, Cost Hotline at (512) 475-2497 or toll-free at 1-888-672-6787.

If you need special accommodation pursuant to the Americans With Disabilities Act (ADA), please contact our ADA coordinator, Todd Phillips, Human Resources at (806) 742-3650.

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APPENDIX B

CHARGES FOR REQUESTED RECORDS AND INFORMATION

A. Charges for copying requested records and information shall be made in accordance with the following schedule:

(1) A charge of less than \$40 will not be made for copying and supplying records and/or information. However, if an individual requestor submits separate requests on the same day, the Office of General Counsel may accumulate such individual charges into a single billing provided it is \$40 or greater.

(2) Standard-size Copy

(a) The charge for readily available information on standard-size paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page. A standard-size copy is defined as a printed image on one side of a piece of paper that measures no greater than 8½ by 14 inches. Each side of a piece of paper on which an image is made is counted as a single copy.

(b) Readily available information is defined as information that already exists in printed form or information that is stored electronically and is ready to be printed or copied without requiring any programming, manipulation or redaction, or information that already exists on microfiche or microfilm. Information that requires a substantial time to locate or prepare (where location and preparation are a necessity and not as a result of inefficient record keeping) for release is not readily available information. In general, records older than 3 years are not readily available.

(3) Nonstandard-size Copy

(a) A nonstandard-size copy is defined as any paper copy greater than 8½ by 14 inches or one supplied to the requestor in any other medium such as microfiche, microfilm, diskettes, magnetic tape, CD-ROM, and flash drive.

(b) The charges for nonstandard copies are:

Oversized Paper copy (ex. 11 x 17)	\$.50 each side of a piece of paper
Diskette	\$1.00 each disk
Magnetic tape	Actual Cost
Audio cassette	\$1.00 each cassette
Data Cartridge (each)	Actual Cost
Tape Cartridge	Actual Cost
Rewritable CD (CD-RW)	\$1.00 each disc
Non-rewritable CD (CD-R)	\$1.00 each disc
Digital Video Disc (DVD)	\$3.00 each disc
JAZ Drive	Actual Cost
Flash drive	Actual Cost
Other electronic media	Actual Cost
Specialty paper (blue print, map, etc.)	Actual Cost

(4) Personnel Charge

- (a) The charge for personnel costs incurred by a department or office in processing a request for public information is \$15 an hour. Where applicable, the personnel charge should be prorated to recover the cost for personnel time spent to locate documents, reproduce and redact requested information.
 - (b) A personnel charge may not be assessed for requests that are for 50 pages of paper copies of readily available information in standard-size form or fewer, unless allowed by state law. * **Texas Government Code § 552.261(a)**.
 - (c) A charge for personnel time may not be assessed for any time spent by any person who reviews the requested information to:
 - Determine whether the Office of General Counsel will raise any exception to disclosure of the requested information under Subchapter C of the Texas Public Information Act; or
 - Research or prepare a request for a ruling by the Attorney General's Office pursuant to Subchapter C of the Texas Public Information Act.
- (5) Overhead Charge
- (a) A department or office may include in the charges both direct and indirect costs in addition to a personnel charge when requested to supply information that is not readily available, or which will be greater than 50 pages of paper copies of readily available information. The overhead amount assessed will be 20 percent of the personnel charge.
 - (b) An overhead charge may not be made for requests for 50 pages of readily available paper-copies in standard-size form.
 - (c) An overhead charge may not be made for requests to view documents.
- (6) Microfiche and Microfilm Charge
- If the department or office has information that exists on microfilm and it has a method of producing copies from the microfilm, the charge shall be \$.10 per page plus a charge to cover any personnel time spent in making the copies (see subsection (4) on personnel charges). If the requestor prefers to have a copy of the fiche or film itself and the information on the fiche or film can be released in its entirety, the department or office may make a copy of the fiche or film and charge for the cost of having such a copy made.
- (7) Remote Document Retrieval Charge
- Due to limited on-site capacity of storage for documents or due to offsite storage of data, it frequently is necessary for departments to store information that is not in current use in remote storage locations. To the extent that retrieval of documents in remote locations results in a cost to the department or office to comply with the request, it is permissible for an assessment to recover costs of such services. Only personnel time outlined in compliance with the definition of “readily available information” in subsection (2) on standard-size copy and in subsection (4) on personnel charges should be added to recovery costs.
- (8) Computer Resource Charge

Where the retrieval of the information requires accessing the System or a component's computing system, the following charges shall be assessed:

- (a) Administrative System (Email, Financial, Payroll, etc.) - \$10.00 per minute of CPU time
- (b) Academic System - \$1.50 per minute of CPU time
- (c) Client/Server - \$2.20 per clock hour
- (d) Individual PC system - \$1.00 per hour of wall clock time

If the request requires the services of the component's programming staff, a charge of \$28.50 per hour shall be assessed.

(9) Miscellaneous Supplies

The actual cost of any miscellaneous supplies such as labels, boxes, and other supplies used to produce the requested information shall be added to the total charge for the requested information.

(10) Postal and Shipping Charges

Any related postal or shipping expenses that are necessary to transmit the reproduced information to the requesting party shall be added to the cost. This may be an estimated charge based on previous requests (similar size and weight).

(11) Fax and Scanning Charges

The charge for a fax of the requested information and transmission locally shall be \$.10 per page. The charge for long distance transmission shall be \$.50 per page for a fax sent within the 806 area code and \$1 per page for a fax transmitted to all other area codes. Scanned documents sent by email or other electronic means shall be \$.10 per page.

(12) Sales Tax

Sales tax will not be added on charges for public information.

B. Access to Information Where Copies Are Not Requested

(1) No charge should be assessed for making available for inspection any public information maintained in a standard paper record, except as follows:

- a. The governmental body may charge to make a copy of the page from which information must be redacted. ***Texas Administration Code § 70.5.**
- b. The governmental body has 16 or more employees and the information requested takes more than 5 hours to prepare for inspection; and
 - 1. is older than five years; or
 - 2. Completely fills six or more archival boxes. ***Texas Administration Code § 70.5. * Texas Government Code § 552.271.**

(2) In addition, no charge should be assessed for inspection of an electronic record unless complying with the request will require programming or manipulation of data. Redacting

protected information in electronic records is manipulation of data. ***Texas Government Code § 552.272.**

- (3) Please note that institutions of higher education are required to comply with the Family Educational Rights and Privacy Act (FERPA), thus, the System and its components have many documents that must be redacted prior to release in order to protect student privacy.
- (4) The requestors must complete the viewing of information within 10 days after the information is made available. This time may be extended an additional 10 days upon written request.

C. Fees for Obtaining Copies of Body Worn Camera Recordings of a Law Enforcement Officer

- (1) In the event a request is properly made for body worn cameras pursuant to **Occupations Code § 1701.661**, the charge for obtaining a copy of a body worn camera recording shall be:
 - a. \$10.00 per recording responsive to the request for information; and
 - b. \$1.00 per full minute of body worn camera video or audio footage responsive to the request for information.

D. Required Itemized Estimate of Charges.

- (1) If a request for a copy of public information or a request to inspect information will result in a charge of \$40 or higher, the Office of General Counsel will provide the requestor a written itemized statement. ***Texas Government Code § 552.2615.**
- (2) If the estimated charges exceed \$100.00 the requestor will be required to either pay a deposit of 50% of the total estimated costs or provide a bond for the full amount of the estimated costs before the request can proceed. Requestors may also modify their request or file a complaint with the Attorney General in response to the estimate. However, requestors must respond to the estimate and indicate whether they are accepting the charges, modifying the request or filing a complaint within 10 business days of receiving the estimate or their request will be deemed withdrawn.

E. Funds received from a requestor shall, where possible, be deposited to the account of the appropriate department incurring the cost of locating, compiling, redacting and copying the records and/or information.