

Access to Public Records

Summary/Purpose: The purpose of this policy is to establish the procedures for seeking access to public records, to protect the privacy of certain records, to ensure compliance with the Mississippi Public Records Act, and to ensure compliance with applicable privacy and other laws. This policy applies to all University of Mississippi employees and departments receiving a request for public records. This policy also applies to any individual requesting to inspect, copy or review public records possessed by the University of Mississippi.

I. University Departments and Employees

Any University of Mississippi employee or department receiving a public records request (sometimes described as a “freedom of information” or “FOIA” request) shall immediately (**within one (1) business day**) forward a copy of the request to the Office of General Counsel along with all contacts and communications from the requester. Any University of Mississippi employee or department receiving a public records request or possessing requested records or information shall cooperate with and assist the Office of General Counsel in responding to a request. Questions regarding this policy or its implementation should be directed to the Office of General Counsel.

II. Submitting a Request for Public Records

The Mississippi Ethics Commission has developed model rules to provide best practices for complying with the Mississippi Public Records Act and to promote a spirit of cooperation between public bodies and requestors by standardizing best practices throughout the state. This policy is based on the model rules. When submitting a request for public records, all individuals are required to comply with this policy. Any questions regarding this policy should be directed to the Office of General Counsel.

III. Process for Responding to a Request for Public Records

A. Authority and Purpose

“It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act. Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records.” Miss. Code Ann. § 25-61-1.

B. Public Records Officer

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(1) Any person wishing to request access to public records of the University of Mississippi, or seeking assistance in making such a request should contact the public records officer:

Charlotte Fant Pegues
Assistant Provost and Registrar
The University of Mississippi
Office of the Registrar
104 Martindale
University, MS 38677

Email: publicrecords@olemiss.edu
Phone: (662) 915-7014
Fax: (662) 915-5640

(2) The public records officer will oversee compliance with this policy but may designate another University of Mississippi staff member to process a request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee will provide assistance to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the University of Mississippi.

C. Availability of Public Records

(1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the University of Mississippi, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding holidays. The public records officer or designee may work with the requester to determine the time, place and manner of inspection and copying of records so as not to interfere with other essential duties and functions of the University of Mississippi.

(2) **Organization of records.** The University of Mississippi will maintain its records in a reasonably organized manner and will take reasonable actions to protect records from damage and disorganization. A requestor shall not physically remove or take with them any records possessed or maintained by the University of Mississippi. Numerous records are available on the University of Mississippi's web site at www.olemiss.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(3) Making a request for public records.

(a) Any person wishing to inspect or copy public records should make the request in writing by completing the University of Mississippi's request form. The form can be found at the end of this policy or can be accessed via the following link: <https://legal.olemiss.edu/index/public-records-request-form/>. Any person may also submit a written request by letter, fax, or e-mail addressed to the public

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records officer identified in Section III(B)(1) of this policy. Requests must include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of the request.

(b) If the requestor wishes to receive copies of the records instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to Section III(H) of this policy, standard photocopies will be provided at 15 cents per page.

(c) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

D. Processing of Public Records Requests – General

(1) Providing access. The University of Mississippi acknowledges that providing access to public records is a duty and that any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record in accordance with these rules. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) Acknowledging receipt of request. Within five (5) business days of receipt of the request, the public records officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available;

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(d) Provide a reasonable estimate of the costs associated with responding to the request (this includes the costs associated with compiling, analyzing and potentially redacting responsive records);

(e) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor (i.e. clarification may be requested and provided by telephone and the public records officer or designee may revise the estimate of when records will be available); or

(f) Deny the request.

(3) Consequences of failure to respond. If the University of Mississippi does not respond in writing within five (5) business days of receipt of the request, the requestor should contact the public records officer to determine the reason for the failure to respond.

(4) Protecting rights of others. In the event the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) Records exempt from disclosure. Some records are exempt from or protected from disclosure, in whole or in part. If the University of Mississippi determines that a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. The University of Mississippi may determine that it can redact protected or exempt information and provide the portion of a record that is not protected or exempt from disclosure. In such a case, the public records officer or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record is redacted.

(6) Inspection of records.

(a) Consistent with other demands, the University of Mississippi shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the University of Mississippi to copy.

(b) The requestor must claim or review the assembled records within thirty (30) days of the University of Mississippi's notification to him or her that the records

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are available for inspection or copying. The University of Mississippi will notify the requestor in writing of this requirement and inform the requestor that he or she contact the public records officer or designee to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty (30) day period or make other arrangements, the University of Mississippi may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty (30) days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the University of Mississippi has completed a diligent search for the requested records and made any nonexempt records available for inspection.

(10) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer or designee will close the request and indicate to the requestor that the University of Mississippi has closed the request.

(11) Later discovered documents. If, after the University of Mississippi has informed the requestor that it has provided all available records, the University of Mississippi becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

E. Processing of Public Records Requests – Electronic Records

(1) Requesting electronic records. The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records. When a requestor requests records in an electronic format, the public records officer or designee will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body

and is generally commercially available, or in a format that is reasonably translatable from the format in which the public body keeps the record. Costs for providing electronic records are governed by Section III(H) of this policy.

(3) Customized access to data bases. With the consent of the requestor, the University of Mississippi may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The University of Mississippi may charge the actual cost for such customized access.

F. Exemptions

The Mississippi Public Records Act, as well as other statutes and court decisions, provide that some documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Furthermore, the provisions of the Mississippi Public Records Act shall not be construed to conflict with, amend, repeal or supersede any constitutional or statutory law or decision of a court which declares a public record to be confidential or privileged. Requestors should be aware of the below listed exemptions that restrict the availability of some documents held by the University of Mississippi. Please note, the below list does not constitute a complete list of all exemptions but rather represents a list of exemptions commonly applicable to public record requests received by the University of Mississippi.

- Academic records exempt from public access, see Miss. Code Ann. § 37-11-51.
- Academic research exempt from public access, see Miss. Code Ann. § 37-11-51.
- Appraisal records exempt from access, see Miss. Code Ann. § 31-1-27.
- Archaeological records exempt from public access, see Miss. Code Ann. § 39-7-41.
- Attorney work product and records protected by the attorney-client privilege are exempt from disclosure, see Miss. Code Ann. § 25-1-102 and Mississippi Rule of Evidence 502.
- Audit reports compiled pursuant to the Mississippi Internal Audit Act, see Miss. Code Ann. § 25-65-17.
- Educational Records as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA).
- Environmental self-evaluation reports, public records act, exemption, see Miss. Code Ann. § 49-2-71.

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- Health records as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- Hospital records, Mississippi Public Records Act exemption, see Miss. Code Ann. § 41-9-68.
- Individual tax records in possession of public body, exemption from public access requirements, see Miss. Code Ann. § 27-3-77.
- Investigative Reports of a law enforcement agency, see Miss. Code Ann. § 25-61-12.
- Letters of recommendation respecting admission to an educational institution, see Miss. Code Ann. § 37-11-51.
- Licensure application and examination records, see Miss. Code Ann. § 73-52-1.
- Nonpublic personal information as defined by the Financial Services Modernization Act of 1999.
- Personnel files exempt from examination, see Miss. Code Ann. § 25-1-100.
- Personal contact information of individuals possessing a weapon permit, see Miss. Code Ann. § 25-61-11.1.
- Personal contact information of law enforcement officers and their family, see Miss. Code Ann. § 25-61-12.
- Privileged communications to physicians, see Miss. Code Ann. § 13-1-21.
- Public disclosure of private facts, see Young v. Jackson, 572 So.2d 378, 382 (Miss.1990).
- Test questions in the possession of a public body, see Miss. Code Ann. § 73-52-1 and Miss. Code Ann. § 37-11-51.
- Trade secrets, proprietary commercial and financial information, see Miss. Code Ann. § 79-23-1.
- Trade secrets and confidential commercial and financial information of a proprietary nature developed by a college or university under contract with a firm, business, partnership, association, corporation, individual or other like entity, see Miss. Code Ann. § 79-23-1.

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- Unpublished manuscripts, preliminary analyses, drafts of scientific or academic papers, plans or proposals for future research and prepublication peer reviews, see Miss. Code Ann. § 37-11-51.
- Victim identity records, see Miss. Code Ann. § 25-61-12.
- Workers' compensation records, see Miss. Code Ann. § 71-3-66.

G. Third Party Information

When any person files or submits documents with the University of Mississippi which the filer contends are exempt from disclosure under the Mississippi Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.

Any document filed with the University of Mississippi which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and accompanying cover letter at the time of filing. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, the University of Mississippi shall notify the person who filed the document. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to Miss. Code Ann. § 25-61-9.

If a party fails to clearly designate or mark a document as confidential, the University of Mississippi may still provide notice to a third party that the records requested may contain trade secrets or confidential commercial or financial information. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the party obtains a court order protecting such records as confidential pursuant to Miss. Code Ann. § 25-61-9.

Any person filing documents with the University of Mississippi shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The University of Mississippi shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will the University of Mississippi bear any responsibility for a filer's failure to redact such information which leads to or may lead to identity theft or other crime or loss.

H. Costs of Providing Public Records

Miss. Code Ann. § 25-61-7(1) reads as follows: "Except as provided in subsection (2) of this section, each public body may establish and collect fees reasonably calculated to reimburse it for,

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and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records. Any staff time or contractual services included in actual cost shall be at the pay scale of the lowest level employee or contractor competent to respond to the request. Such fees shall be collected by the public body in advance of complying with the request.”

(1) Costs for paper copies. A requestor may obtain standard black and white photocopies for 15 cents per page. Copy charges for some specific types of records are set by statute and may exceed the amount stated above.

(2) Costs for electronic records. The cost of electronic copies of records shall be \$5.00 for information on a CD-ROM. The cost of scanning existing University of Mississippi paper or other non-electronic records is 5 cents per page. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies.

(3) Costs of mailing. The University of Mississippi may also charge actual costs associated with mailing public records, including the cost of the shipping container.

(4) Payment. Payment may be made by cash, check, or money order to the University of Mississippi. Payment should be sent to the attention of the public records officer. Before beginning to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records in an installment before providing that installment. The University of Mississippi will not charge sales tax when it makes copies of public records.

(5) Charges for searching, reviewing and redacting. The actual cost of searching, reviewing and, if necessary, redacting exempt information from public records shall be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task, which shall be multiplied by the actual time to complete the task. Such fees shall be collected by the public body in advance of complying with the request.

I. Review of Denials of Requests for Public Records

(1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer must promptly provide the petition and any other relevant information to the Provost for the University of Mississippi. The Provost for the University of Mississippi will immediately consider the petition

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and either affirm or reverse the denial within three (3) business days following the University of Mississippi's receipt of the petition, or within such other time as the University of Mississippi and the requestor mutually agree to.

(3) Review by the Ethics Commission. If the University of Mississippi denies a requestor access to public records, the requestor may ask the Mississippi Ethics Commission to review the matter. The Mississippi Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.

(4) Judicial review. Any person whose request for public records was denied may institute a suit in the chancery court of Lafayette County seeking to reverse the denial, as set forth in Miss. Code Ann. § 25-61-13.

THE UNIVERSITY OF MISSISSIPPI

REQUEST FOR PUBLIC RECORDS

Person Requesting: _____

Representing: _____

Street/Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Date of Request: _____

Email: _____

Documents Requested (Please be as clear and concise as possible):

Review Requested: _____ Personally Inspect _____ Copy of Material

Further Instructions: _____

Requester's Signature: _____

Please submit this request via:

By U.S. Mail

Office of Registrar
Attn: Charlotte Fant Pegues
104 Martindale
University, MS 38677

By Facsimile

(662) 915-5640

By Email

publicrecords@olemiss.edu

Note: The actual costs of gathering and reproducing the requested documents will be the responsibility of the requesting agent.

Please direct any questions regarding your request to the University of Mississippi's Office of General Counsel at 662-915-7014.