

THE HAMILTON COUNTY ELECTION COMMISSION'S PUBLIC RECORDS POLICY

In accordance with Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for the Hamilton County Election Commission ("Election Commission") is adopted by the Election Commissioners to provide economical and efficient access to public records.

The Tennessee Public Records Act (Tenn. Code Ann. § 10-7-501, et seq.) (the "Act") provides, among other things, that all state, county, and municipal records shall, at all times during business hours, 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. The Act and other provisions of applicable law also provide that certain public records may not be released, or may only be released after certain information has been redacted.

The Election Commission's Public Records Request Coordinator (the "Coordinator") will endeavor to provide timely and efficient access and assistance to persons requesting to view or receive copies of public records. No provisions of this Policy will be used to improperly limit access to public records. But the integrity and organization of public records, as well as the efficient and safe operation of the Election Commission, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Coordinator for the Election Commission.

This Policy is available for inspection and duplication in the office of the Coordinator for the Election Commission. This Policy is posted online at www.elect.hamiltontn.gov. This Policy may be changed by the Election Commission at any time.

I. Definitions

A. **Public Records:** 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 entity. Public 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. There are numerous statutory exceptions to the Act, which are updated yearly by the Office of Open Records Counsel.

B. **Records Custodian:** The office, official, or employee 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.

C. **Public Records Request Coordinator:** The individual who has responsibility to ensure that public record requests are routed to the appropriate Records Custodian and are fulfilled in accordance with the Act. The Public Records Request Coordinator may also be a Records Custodian.

D. Requestor: A person seeking access to a public record, whether it is for inspection or production.

II. Process for Requesting Access to Public Records

A. All public record requests shall be made to the Election Commission's Coordinator to ensure public record requests are fulfilled in a timely manner, consistent with the Act applicable law.

B. Requests for inspection, or for copies, or requests for inspection and copies, should be made in writing using the attached Public Records Act Request Form ("Request Form"). The Request Form may be mailed to Hamilton County Election Commission, Attn: Public Records Request Coordinator, 700 River Terminal Road, Chattanooga, TN 37406; or may be sent by email to vote@hamiltontn.gov.

C. The Requestor must provide a mailing address to the Coordinator for providing any written communication required under the Act.

D. Tennessee law requires that the person making a public record request must be a Tennessee citizen in order to inspect or receive copies of public records. A copy of the front and back of a currently valid Tennessee driver's license may be used to establish citizenship. Contact the Election Commission Coordinator for alternative acceptable forms of ID.

III. Responding to Public Records Requests

A. Public Record Request Coordinator

1. The Coordinator shall review public records requests and make an initial determination, which should include the following:

- a. If the Requestor provided evidence of Tennessee citizenship.
- b. If the records requested are described with sufficient specificity to identify them.
- c. If the records requested are statutorily exempt from production.
- d. If the requested records will be in need of redactions.
- e. If the Election Commission is the custodian of the records.

2. The Coordinator shall acknowledge receipt of the request and take any of the following actions:

- a. Advise the Requestor of this Policy and the requirements regarding:

- i. If the Requestor provided proper evidence of Tennessee citizenship.
 - ii. Form(s) required for copies.
 - iii. Fees (and labor threshold and waivers, if applicable) that must be paid prior to completion of the compilation, review, or redaction of requested records.
 - iv. Aggregation of multiple or frequent requests.
 - b. If appropriate, deny the request in writing, providing the appropriate grounds for denial, which may include one of the following:
 - i. The Requestor is not, or has not presented evidence of being, a Tennessee citizen.
 - ii. The request lacks specificity.
 - iii. Applicable law makes the record not subject to disclosure.
 - iv. The Election Commission is not the custodian of the requested records.
 - v. The records do not exist.
 - c. Coordinate with the appropriate Election Commission employees regarding the records request.
 - d. If the Coordinator knows that the requested records are in the custody of a different governmental entity, and the Coordinator knows the correct governmental entity, advise the Requestor of the correct governmental entity and the appropriate person to contact at that entity, if known.
3. The designated Election Commission Coordinator is:
 - a. Hamilton County Election Commission, Attn: Public Records Request Coordinator, 700 River Terminal Road Chattanooga, TN 37406; Email: vote@hamiltontn.gov.

B. Records for Production

1. Upon receiving a public records request, the Election Commission shall promptly make requested public records available in accordance with the Act.
2. If 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 open; to review and redact records; or for other similar reasons, then the Coordinator shall, within seven (7) business days from the Coordinator's receipt of the request, send the Requestor a completed Public Records Request Response Form, which is attached.

3. If the Coordinator denies a public record request, he or she shall deny the request in writing or by using the Public Records Request Response Form.

4. If after responding to a public records request, the Election Commission discovers records responsive to the records request were omitted, the Coordinator should contact the Requestor concerning the omission and produce the records as quickly as practicable.

C. Review and Redaction

1. If a record contains confidential information or information that the Election Commission may not release, the Coordinator shall have the records reviewed and redacted to remove information that is confidential or the release of which is prohibited.

2. Before the production, the Election Commission will require payment by the Requestor of the cost of review and redaction.

3. Whenever a redacted record is provided, the Coordinator may provide the Requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

IV. Inspection of Records

A. There shall be no charge for inspection of open public records that do not require compiling, reviewing, or redacting of records to respond.

B. The location for inspection of records within the offices of the Election Commission shall be determined by the Coordinator.

C. Under reasonable circumstances, the Coordinator may require an appointment for inspection or may require inspection of records at an alternate location.

V. Copies of Records

A. The Coordinator shall promptly respond to a public record request for copies in an economic and efficient manner.

B. Copies will be available for pickup at a location specified by the Coordinator.

C. Upon payment of all applicable charges and for postage, copies will be delivered to the Requestor's home address by the United States Postal Service.

D. A Requestor will not be allowed to make copies of records with the Requestor's personal equipment.

VI. Fees and Charges and Procedures for Billing and Payment

A. Fees and charges for compiling, reviewing, redacting, or copying of public records should not be used to improperly restrict access to public records.

B. The Coordinator shall provide the Requestor with an estimate of the charges to compile, review, and redact, or produce copies of records and shall require pre-payment of such charges before producing requested records.

C. When fees for copies and labor do not exceed \$10.00, the fees may be waived by the Coordinator.

D. Fees and charges for compiling, reviewing, redacting, and/or producing copies are as follows:

1. \$0.15 per page for letter- and legal-size black and white copies.
2. \$0.50 per page for letter- and legal-size color copies.
3. The actual cost of any other medium upon which a record or information is being produced.
4. Labor when time exceeds 1 hour shall be at the hourly rate of the employee(s) reasonably necessary to produce the requested information.
5. If an outside vendor is used, the actual costs assessed by the vendor.

E. Payment is to be made to the Coordinator either by cashier's check made payable to the Hamilton County Election Commission and presented to the Coordinator or via credit card. Payment in advance of production will be required.

F. The Election Commission, at the Coordinator's discretion, may aggregate frequent or multiple requests.

1. The Election Commission may aggregate record requests when more than four requests are received by the Election Commission within any consecutive 30-day period, either from an individual or a group of individuals deemed to be working in concert.

2. The Coordinator is responsible for making the determination that a group of individuals is working in concert and that requests will be aggregated. The Coordinator will inform the Requestors of the determination to aggregate and will advise the Requestors that the Requestors may consult with the Office of Open Records Counsel if the Requestors disagree with the Coordinator's decision to aggregate.

G. The Coordinator will not accept standing requests for access to public records. All requested records must be requested as outlined in this Policy, with each record requested constituting a separate and distinct request.

H. Discretion of Coordinator to Deny Request for Failure of Requestor to Comply with this Policy and the Act:

(a) If a person makes two (2) or more requests to view a public record within a six-month period and, for each request, the person fails to view the public record within fifteen (15) business days after receiving notification that the record is available to view, the Election Commission is not required to comply with any public records request from the person for a period of six (6) months from the date of the second request to view the public record unless the Election Commission determines failure to view the public record was for good cause.

(b) If a person makes a request for copies of a public record and, after copies have been produced, the person fails to pay the Election Commission the cost for producing such copies, the Election Commission is not required to comply with any public records request from the person until the person pays for such copies; provided, that the person was provided with an estimated cost for producing the copies prior to producing the copies and the person agreed to pay the estimated cost for such copies.

VII. Compliance with Applicable Laws and Regulations. This Policy shall be interpreted and applied so that the Election Commission acts in compliance with the Act and all applicable laws and regulations.

PUBLIC RECORD REQUEST RESPONSE FORM

Hamilton County Election Commission

700 River Terminal Road

Chattanooga, TN 37406

[Date]

[Requestor's Name and Contact Information]:

In response to your records request received on [Date Request Received], our office is taking the action(s) indicated below:

- The public record(s) responsive to your request will be made available for inspection:

Location: _____

Date & Time: _____

- Copies of public record(s) responsive to your request are:

Attached;

Available for pickup at the following location:

_____ ; or

Being delivered via:

USPS First-Class Mail

Electronically

Other: _____

- Your request is denied on the following grounds:

Your request was not sufficiently detailed to enable identification of the specific requested record(s). You need to provide additional information to identify the requested record(s).

No such record(s) exists, or this office does not maintain record(s) responsive to your request.

No proof of Tennessee citizenship was presented with your request. Your request will be reconsidered upon presentation of an adequate form of identification.

You are not a Tennessee citizen.

You have not paid the estimated copying/production fees.

The following state, federal, or other applicable law prohibits disclosure of the requested records:

- It is not practicable for the records you requested to be made promptly available for inspection and/or copying because:

It has not yet been determined that records responsive to your request exist, or

The office is still in the process of compiling, retrieving, reviewing, or redacting the requested records.

The time reasonably necessary to produce the record(s) or information, or to make a determination of a proper response to your request is: _____

The reasonable cost for compiling, reviewing, redacting, and producing copies of records, which must be made prior to production, in accordance with this Policy and the Act, is estimated to be:

\$ _____

If you have any additional questions regarding your record request, please contact [Public Records Request Coordinator].

Sincerely,

[Public Record Request Coordinator] [Name, Title, and Contact Information]