

**RULES
OF THE
TENNESSEE ETHICS COMMISSION
CHAPTER 0580-01-02
ACCESS TO PUBLIC RECORDS OF THE TENNESSEE ETHICS COMMISSION**

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0580-01-02-.01 PURPOSE AND SCOPE

These rules are promulgated for the purpose of providing procedures to allow access to those records which are within the custody and control of the Tennessee Ethics Commission, and that are within the definition of public records in the Tennessee Public Records Act, T.C.A. §§ 10-7-501, *et seq.*, pursuant to court order and case law interpreting the Act; and that are not within any exception, privilege, court decision, statute, common law principle, or other provision of law that excludes the public record from being available for inspection and copying by members of the public. All records of the Tennessee Ethics Commission are currently housed at the main office of the Commission. These rules are also promulgated for the purpose of implementing and establishing fees to be charged for reproduction of records or for the development of records in a specific format.

Authority: T.C.A. §§4-5-201 *et seq.*, 3-6-107; 10-7-503 and 10-7-506, *Tennessean v. Electric Power Board of Nashville*, 979 S.W.2d 297 (Tenn. 1998); and *Op. Tenn. Att. Gen.* 01-021 (Feb. 8, 2001). **Administrative History:** Original rule filed November 30, 2007; effective March 28, 2008.

0580-01-02-.02 DEFINITIONS

- (1) Act. The Tennessee Public Records Act, T.C.A. §§ 10-7-501, *et seq.*
- (2) Commission. The Tennessee Ethics Commission.
- (3) Executive Director. The Executive Director of the Tennessee Ethics Commission.
- (4) Non-routine Copy. A copy, whether of paper or of electronically stored data, which, to be made, requires more than minimal staff assistance, e.g., odd or oversize pages, bound documents which must be disassembled before copying and reassembled after copying, an unusually large number of copies, or manipulation or retrieval of electronically stored data.
- (5) Public Record. For purposes of this Chapter, any record of the Commission that is deemed to be open to inspection by the public pursuant to the provisions of the Tennessee Public Records Act, T.C.A. §§ 10-7-501 *et seq.*, and pursuant to court order and case law interpreting the Act, with the proviso that a document may be within an exception otherwise provided by state law pursuant to T.C.A. § 10-7-503(a), and therefore may not be subject to inspection or copying.
- (6) Record. For the purposes of this Chapter, any data and/or documents developed and maintained by the Commission (whether on paper, magnetically, or electronically, whether on a single computer or on a computer system, whether on disk, tape or otherwise), or that have been received and are maintained by the

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Commission, during the normal course of the Commission's activities. A Record may or may not be a Public Record. Records of the Commission are retained, transferred or destroyed in accordance with state record retention laws.

- (7) A black and white copy, whether of paper or of electronically stored data, which, to be made, requires minimal staff assistance, e.g., pages which are either 8½ x 11 or 8½ x 14 and can be automatically printed from electronically stored records or automatically fed into a standard copier.

Authority: T.C.A. § §4-5-201 et seq., 3-6-101, 3-6-103, 3-6-107, 3-6-107 (1); 10-7-501 through 10-7-515, *Tennessean v. Electric Power Board of Nashville*, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001). **Administrative History:** Original rule filed November 30, 2007; effective March 28, 2008. Amendment filed February 27, 2009; effective June 26, 2009.

0580-01-02-.03 REQUESTS FOR INSPECTION OR FOR REPRODUCTION OF PUBLIC RECORDS

- (1) A request to the Commission for inspection or reproduction of Public Records may be made in person, via telephone, via e-mail, postal mail, or facsimile transmission; provided, however, that a citizen making a request by telephone may be asked to follow up with a written request to the Commission. The request shall identify with reasonable specificity the Public Record, set or system of Public Records which is being requested.
- (2) Within seven (7) days after receipt of the request for inspection, or inspection and reproduction, of the requested Record, Commission legal staff shall review the records that are within the scope of the request to determine whether the Records appear to be Public Records and, if so, assess the status of the Public Records and the scope of the request.
- (3) Upon review and prior to the release of the requested Public Record, the Commission's staff may redact any data or information in the Public Record that is confidential, privileged or otherwise protected from disclosure by state law.
- (4) If it appears from the Commission legal staff's review and assessment that any requested Record is a Public Record but that inspection and/or reproduction of the Record, or the system of Records, cannot immediately be provided, then the Commission staff shall act in accord with T.C.A. § 10-7-503 and within seven (7) days after receiving the request, furnish the requestor with a completed records request response form. The request response form shall be the current form as promulgated by the Office of Open Records Counsel.
- (5) Denial of Request to Inspect or Reproduce Records. If, within the seven (7) days after receipt of the request, it appears from the Commission staff's review and assessment that any Record within the scope of the request is, pursuant to state or federal law, not subject to public inspection or reproduction, Commission staff shall provide notice of the basis of the denial to the requesting individual or entity in writing as required by law. Staff may use the current records request response form as promulgated by the Office of Open Records Counsel.

Authority: T.C.A. §§ 4-5-201 et seq., 3-6-107, 3-6-107(1); 8-6-604; 10-7-501 through 10-7-515; *Tennessean v. Electric Power Board of Nashville*, 979 S.W.2d 297 (Tenn. 1998); and Op. Tenn. Atty. Gen. 01-021 (Feb. 8, 2001). **Administrative History:** Original rule filed November 30, 2007; effective March 28, 2008. Amendment filed February 27, 2009; effective June 26, 2009.

0580-01-02-.04 FEES AND COSTS FOR REPRODUCTION OF PUBLIC RECORDS

- (1) Fees and costs for the reproduction of Public Records are as set forth in the latest Office of Open Records Counsel's Schedule of Reasonable Charges for Copies of Public Records, which is incorporated herein by reference.
- (2) Copying by Requesting Individual or Entity.
 - (a) All Public Records shall remain in the sole custody of Commission staff. No original Public Records shall be placed in the custody of the individual or entity making the request.
 - (b) The Executive Director may, in his or her discretion, permit the individual or entity requesting the Public Record(s) to supply the necessary equipment and supplies to make the requested copies where the Public Records are housed or located for purposes of the records request.
 - (c) The Executive Director may, in his or her discretion, require that Commission staff observe the reviewing and copying process permitted by this paragraph for the purpose of protecting the integrity of the Public Records, and any costs associated therewith may be charged pursuant to these rules.

Authority: T.C.A. §§ 4-5-201 et seq., 3-6-107, 3-6-107(1); 8-4-604; 10-7-501 through 10-7-515; *Tennessean v. Electric Power Board of Nashville*, 979 S.W.2d 297 (Tenn. 1998); and *Op. Tenn. Atty. Gen. 01-021* (Feb. 8, 2001). **Administrative History:** Original rule filed November 30, 2007; effective March 28, 2008. Amendment filed February 27, 2009; effective June 26, 2009.