

**RULES
OF
EAST TENNESSEE STATE UNIVERSITY**

**CHAPTER 0240-06-05
PUBLIC RECORDS**

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0240-06-05-.01 PURPOSE AND SCOPE OF AUTHORITY.

- (1) This rule is promulgated to provide economical and efficient access to public records as provided under the Tennessee Public Records Act.

Authority: T.C.A. §§ 10-7-503, et seq., and 49-8-101. **Administrative History:** New rules filed May 4, 2022; effective August 2, 2022.

0240-06-05-.02 DEFINITIONS.

- (1) East Tennessee State University or ETSU or University - The campuses, centers, units, and institutes of East Tennessee State University and their constituent parts governed by the East Tennessee State University Board of Trustees and administration. Neither East Tennessee State University, ETSU, or University means the East Tennessee State University Foundation, Inc; the East Tennessee State University Research Foundation; or the Medical Education Assistance Corporation.
- (2) FERPA - The Family Educational Rights and Privacy Act, codified in 20 U.S.C. § 1232(g).
- (3) Public Record - 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.
- (4) Public Records Request Coordinator - The individual or individuals designated by ETSU's President to ensure public records requests are routed to the appropriate records custodian and are fulfilled in accordance with this rule. The Public Records Request Coordinator may also be a records custodian.
- (5) 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 public record.
- (6) Requestor - A person seeking access to a public record whether it is for inspection or duplication.
- (7) Tennessee Public Records Act or TPRA - The state law codified in T.C.A. §§ 10-7-501 et seq.

Authority: T.C.A. §§ 10-7-503, et seq., and 49-8-101; and 20 U.S.C. § 1232(g). **Administrative History:** New rules filed May 4, 2022; effective August 2, 2022.

0240-06-05-.03 GENERAL ACCESSIBILITY OF PUBLIC RECORDS.

- (1) All ETSU public records shall, at all times during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of the public records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. Accordingly, the public records of ETSU are presumed open for inspection during the regular hours of ETSU unless otherwise provided by law.

Authority: T.C.A. § 10-7-503. **Administrative History:** New rules filed May 4, 2022; effective August 2, 2022.

0240-06-05-.04 REQUESTING ACCESS TO PUBLIC RECORDS.

- (1) Public records requests must be made to the Public Records Request Coordinator to ensure they are routed and fulfilled in a timely manner. ETSU will publish the name, telephone number, email address, and office location of the Public Records Request Coordinator on the [ETSU policies website](#).
- (2) Requests for inspection may be made in person or by mail, phone, fax, or email to the Public Records Request Coordinator. Requests for inspection may also be made in writing using the [Public Records Request Form](#). Requests for copies may only be made in writing using the [Public Records Request Form](#).
- (3) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or alternative acceptable form of ID is required as a condition to inspect or receive copies of public records.

Authority: T.C.A. §§ 10-7-503, et seq., and 10-7-506(a). **Administrative History:** New rules filed May 4, 2022; effective August 2, 2022.

0240-06-05-.05 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (1) The Public Records Request Coordinator must review public records requests, consult with the Office of University Counsel as needed, and make an initial determination of whether:
 - (a) The requester has presented proof of Tennessee citizenship.
 - (b) The requester described the public records requested with sufficient specificity to identify the public records requested; and
 - (c) The University is the custodian of the requested public records.
- (2) The Public Records Request Coordinator must acknowledge receipt of the request and take any of the following action(s) within seven business days after the University's receipt of the request:
 - (a) Contact the records custodian and make the public records available to the requester.
 - (b) Deny the request in writing, providing the appropriate grounds for denial; or
 - (c) Send the requester a completed Public Records Request Response Form stating the time reasonably necessary to produce the public records.
- (3) The TPRA does not require the University to sort through files to compile information or to create or recreate a record that does not exist.

(Rule 0240-06-05-.05, continued)

- (4) If a public record contains confidential information or information that is not open for public inspection, the Public Records Request Coordinator must prepare a redacted copy prior to providing access.
 - (a) The Public Records Request Coordinator should consult with the Office of University Counsel if questions arise concerning redaction.
 - (b) The Public Records Request Coordinator should provide the requestor with the basis for redaction whenever a redacted record is provided. The basis given for redaction must be general in nature and not disclose confidential information.
- (5) Public Records that are not delivered electronically or in-person will be delivered via USPS First Class Mail. The requestor is responsible for any postage costs associated with fulfilling the request.

Authority: T.C.A. §§ 10-7-503, et seq., 10-7-504, and 10-7-506(a). **Administrative History:** New rules filed May 4, 2022; effective August 2, 2022.

0240-06-05-.06 FEES AND CHARGES FOR PUBLIC RECORDS; PROCEDURES FOR BILLING AND PAYMENT.

- (1) There is no charge for inspection of public records.
- (2) No charges will be assessed for copies and duplicates unless the production costs exceed five dollars (\$5).
- (3) The Public Records Request Coordinator must provide a requestor with an itemized estimate of charges exceeding fifty dollars (\$50) prior to producing copies of public records and may require pre-payment of such charges before producing requested public records.
- (4) Fees and charges for copies are:
 - (a) \$0.15 per page for 8½" x 11" and 8½" x 14" black and white copies. ETSU will waive fees associated with requests for public records that are fewer than 30 pages of black and white copies.
 - (b) \$0.50 per page for 8½" x 11" and 8½" x 14" color copies. The fee for color copies will not be waived.
 - (c) The charge for a double-sided (duplex) copy is the same as the charge for two one-sided copies.
 - (d) If a copy of a public record is produced on a medium other than for 8½" x 11" and 8½" x 14" paper, the Public Records Request Coordinator may assess a copy charge equal to the actual cost of producing a copy of the public record, considering the amount of materials, equipment costs, and the cost of the alternative medium.
 - (e) ETSU is not obligated to provide electronic copies of the requested public records when the requested public records are not maintained electronically.
 - (f) ETSU may charge the actual costs for flash drives or similar storage devices on which electronic copies are provided.
- (5) ETSU may charge the requestor the hourly wage of the employee(s) reasonably necessary to produce the requested public records above the labor threshold.

(Rule 0240-06-05-.06, continued)

- (a) The “labor threshold” is the labor of the employee(s) reasonably necessary to produce requested public records for the first hour incurred by ETSU in producing the public records. “Labor” means the employee time reasonably necessary to produce the requested public records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the public records.
 - (b) In calculating the labor costs to be charged to the requestor:
 - 1. First, determine the number of hours each employee spent producing the requested public records.
 - 2. Second, subtract the one-hour labor threshold from the number of hours the highest paid employee spent producing the request.
 - 3. Third, multiply the total number of hours to be charged for the labor of each employee by that employee’s hourly wage.
 - 4. Fourth, add together the totals for all the employees involved in the request to determine the total amount of the labor costs to be charged to the requestor.
 - (c) Labor costs should be tracked based on tenths of an hour, rounded down.
 - (d) Pursuant to Tenn. Code Ann. § 8-4-604(a)(2) and the Office of Open Records Counsel’s [Policy on Reasonable Charges for Frequent and Multiple Requests](#), combined labor charges may be assessed for four (4) or more requests from the same requestor submitted within a 30-day period for any ETSU public record.
- (6) ETSU has discretion to determine how payment for fees and costs should be made and whether advanced payment is required.

Authority: T.C.A. §§ 10-7-503, et seq., and 10-7-506(a). **Administrative History:** New rules filed May 4, 2022; effective August 2, 2022.

0240-06-05-.07 CONFIDENTIALITY EXCEPTIONS.

- (1) Exceptions to the right to inspect or copy public records include, without limitation:
 - (a) Records made confidential by the TPRA or by other state law; and
 - (b) Records ETSU is required to keep confidential by federal statute or regulation as a condition for receipt of federal funds or for participation in a federally funded program.

Authority: T.C.A. §§ 10-7-503, et seq., and 10-7-506(a). **Administrative History:** New rules filed May 4, 2022; effective August 2, 2022.