



Middle Tennessee State University Audit and Compliance Committee

Tuesday
November 13, 2018

MEC Training Room – 2nd Floor
Miller Education Center
503 East Bell Street
Murfreesboro, Tennessee



**Middle Tennessee State University
Audit and Compliance Committee**

Tuesday, November 13, 2018

ORDER OF BUSINESS

- I. Call to Order
- II. Roll Call
- III. Remarks by Committee Chairperson / President
- IV. Approval of the Minutes (Action) Tab 1
 - September 18, 2018 Meeting
- V. Follow-up Item from Prior Meeting (Information) Tab 2
 - Unmanned Aircraft Systems Policy and Process
- VI. Rule Promulgation and Related Policy Revision (Action) Tab 3
 - Policy 120 Public Records – Inspecting and Copying
- VII. Results of External Review (Information)..... Tab 4
 - Tennessee Small Business Development Center
- VIII. Quarterly Report – Results of Internal Audit Reports (Information) Tab 5
- IX. Other Business
- X. Adjourn Public Session
- XI. Non-Public Executive Session – Audits and Investigations (Information)
- XII. Adjourn Non-Public Executive Session



**Middle Tennessee State University
Audit and Compliance Committee**

Tuesday, November 13, 2018

Tab 1

Approval of Minutes



**Middle Tennessee State University
Board of Trustees**

MEETING: Audit and Compliance Committee

SUBJECT: [Minutes of September 18, 2018](#)
[Audit and Compliance Committee Meeting](#)

DATE: November 13, 2018

PRESENTER: Chris Karbowiak

ACTION REQUIRED: Voice Vote

STAFF RECOMMENDATION: Approval

BACKGROUND INFORMATION:

The Audit and Compliance Committee met on September 18, 2018. Minutes from the meeting are provided for review and approval.

Minutes of the Audit and Compliance Committee

The Audit and Compliance Committee met on Tuesday, September 18, 2018 in the MEC Training Room in the MTSU Miller Education Center located at 503 East Bell Street. Trustee Andy Adams called the meeting to order at 11:00 a.m. A quorum was present with the following Committee members in attendance: Trustee Andy Adams, Trustee Tony Johnston, and Board Chairman Trustee Steve Smith. Trustees Pete Delay, Darrell Freeman Sr., Peyton Tracy, and Pam Wright were also present. Also present were President Sidney A. McPhee; Brenda Burkhart, Chief Audit Executive; Gené Stephens, Assistant Vice President for Compliance and Enterprise Risk Management; Alan Thomas, Vice President for Business and Finance; Mark Byrnes, University Provost; Joe Bales, Vice President for University Advancement; Andrew Oppmann, Vice President for Marketing and Communications; Bruce Petryshak, Vice President for Information Technology and Chief Information Officer; Deb Sells, Vice President for Student Affairs and Vice Provost for Enrollment and Academic Services; Heidi Zimmerman, University Counsel and Board Secretary; and Kim Edgar, Assistant to the President and Chief of Staff.

The first item on the agenda for action was the approval of the minutes from the May 30, 2018 and the August 28, 2018 Audit and Compliance Committee meetings. The Motion to approve the May 30, 2018 minutes was made by Board Chairman Smith and seconded by Trustee Johnston. A voice vote was taken and the Motion carried. The Motion to approve the August 28, 2018 minutes was made by Trustee Johnston and seconded by Board Chairman Smith. A voice vote was taken and the Motion carried.

The next item on the agenda for action was the approval of the 2019 Annual Audit Plan. The Motion to approve the 2019 Annual Audit Plan was made by Board Chairman Smith and seconded by Trustee Johnston. A voice vote was taken and the Motion carried.

The Committee adjourned its public session at 11:08 a.m. and entered non-public executive session at 11:09 a.m. to discuss risk assessment reports and audits and investigations. The non-public session adjourned at 11:17 a.m. The Committee reconvened the public session at 11:18 a.m. for the final agenda item of approval of the Risk Assessment Reports. The Motion to approve the Risk Assessment Reports was made by Trustee Johnston and seconded by Board Chairman Smith. A voice vote was taken and the Motion to approve the Risk Assessment Reports carried.

The meeting adjourned at 11:19 a.m.

Respectfully submitted,

Audit and Compliance Committee



**Middle Tennessee State University
Audit and Compliance Committee**

Tuesday, November 13, 2018

Tab 2

Follow-up Item from August 28, 2018 Meeting



**Middle Tennessee State University
Board of Trustees**

MEETING: Audit and Compliance Committee

SUBJECT: **Follow-up Item from Prior Meeting:
Policy 785, Unmanned Aircraft
Systems**

DATE: November 13, 2018

PRESENTER: Brenda Burkhart

ACTION: Informational

BACKGROUND INFORMATION:

At the August 28, 2018 Audit and Compliance Committee meeting, Ms. Gené Stephens gave an update on the Unmanned Aircraft Systems policy and process. Trustee Freeman requested the policy be reviewed to determine if it should be more restrictive and if the time frame for submission of the unmanned aircraft systems use application could be reduced (currently fourteen calendar days prior to the proposed date of operation).

The Unmanned Aircraft Systems (UAS) policy will be reviewed annually. The use of UAS on University property is restricted to University-sponsored events or activities directly related to teaching, research or operational purposes. The application review process was reduced from fourteen days to five calendar days.



**Middle Tennessee State University
Audit and Compliance Committee**

Tuesday, November 13, 2018

Tab 3

Rule Promulgation and Related Policy Revision

Policy 120

Public Records – Inspecting and Copying



**Middle Tennessee State University
Board of Trustees**

MEETING: Audit and Compliance Committee
SUBJECT: Rule Promulgation and Related Policy
Revision: Public Records – Inspecting
and Copying
DATE: November 13, 2018
PRESENTER: Heidi Zimmerman
ACTION REQUIRED: Roll Call Vote
STAFF RECOMMENDATION: Approval

BACKGROUND INFORMATION:

T.C.A. § 10-7-503(g)(2) requires that no later than January 1, 2019, MTSU promulgate a rule regarding public records. The rule must contain these elements: the process for making requests to inspect public records or receive copies of public records and a copy of any required request form; the process for responding to requests, including redaction practices; a statement of any fees charged for copies of public records and the procedures for billing and payment; and, the name or title and the contact information of the individual or individuals within the institution designated as the public records request coordinator.

MTSU has a corresponding policy, Policy 120 Public Records – Inspecting and Copying, that is presented for revision. Minor revisions are found at Section II.A. and II.C. within the definitions of Records Custodian and Public Records Request Coordinator, respectively, and at II.F. where a statutory citation is deleted. The additional language of II.F.6. is based on Public Chapter 980 which added this category of information to the list of Confidential Records. T.C.A. §10-7-504(w). Section IV.A. clarifies current practice which does not allow copying of public records with a camera or cell phone. Finally, IV.K. raised the minimum amount at which fees charged are waived from \$5.00 to \$20.00.

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For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Middle Tennessee State University
Division:	
Contact Person:	Heidi Zimmerman, University Counsel
Address:	1301 E. Main Street, CAB 209, Murfreesboro, TN
Zip:	37132
Phone:	615-898-2025
Email:	Heidi.zimmerman@mtsu.edu

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0240-07-__	Public Records – Inspecting and Copying
Rule Number	Rule Title
0240-07-__-.01	Purpose
0240-07-__-.02	Definitions
0240-07-__-.03	Procedures to Access Public Records
0240-07-__-.04	Copying of Public Records
0240-07-__-.05	Aggregation of Frequent and Multiple Requests

Rules
of
Middle Tennessee State University, Murfreesboro
Chapter 0240-07-__
Public Records – Inspecting and Copying

New

Table of Contents is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

Table of Contents

0240-07-__-.01 Purpose
0240-07-__-.02 Definitions
0240-07-__-.03 Procedures to Access Public Records
0240-07-__-.04 Copying of Public Records
0240-07-__-.05 Aggregation of Frequent and Multiple Requests

0240-07-__-.01 Purpose is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.01 Purpose

- (1) This rule establishes the process under Tennessee’s Public Records Act for making and responding to requests to inspect and/or copy records, including redaction practices; the fees charged for copies of public records; the procedures for billing and payment; and the name or title and contact information of the public records request coordinator.

Authority: T.C.A. § 10-7-503.

0240-07-__-.02 Definitions is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.02 Definitions

- (1) Records Custodian. The MTSU office(s) or employee(s) lawfully responsible for the direct custody and care of a public record.
- (2) Public Records. All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, electronic mail messages, films, sound recordings, or other material regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official University business and required to be open to inspection under the provisions of Tennessee law.
- (3) Public Records Request Coordinator (Coordinator). The individual (or designee) responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Public Records Act.
- (4) Requestor. A person seeking access to a public record, whether it is for inspection or duplication.

Authority: T.C.A. § 10-7-503.

0240-07-__-.03 Procedures to Access Public Records is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.03 Procedures to Access Public Records

- (1) Generally.

- (a) Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee in the office of record during business hours which shall be the business hours of the University's administrative offices.
 - (b) Requests for inspection only may be made orally and cannot be required to be made in writing. Requests for copies, or requests for inspection and copies, must be made in writing. The Request to Inspect or Copy Public Records form may be used, but a written request in any form or format will be acceptable. Requests may be made to the Coordinator
 - (c) Persons requesting to inspect or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).
- (2) Public Records Request Coordinator.
- (a) MTSU will publish the name, telephone number, email address and office location of the Coordinator on its website or Public Records policy.
 - (b) The Coordinator shall review public record requests and make an initial determination of the following:
 - 1. if the requestor provided evidence of Tennessee citizenship;
 - 2. if the records requested are described with sufficient specificity to identify them; and
 - 3. if MTSU is the custodian of the records.
 - (c) The Coordinator shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - 1. Advise the requestor of determinations made regarding:
 - (i) proof of Tennessee citizenship;
 - (ii) form(s) required for copies;
 - (iii) fees and charges, including labor and programming costs;
 - (iv) aggregation of multiple or frequent requests.
 - 2. Provide the records.
 - 3. Deny the request in writing using the Public Records Request Response, which shall indicate the basis for the specific legal denial, including, but not limited to:
 - (i) the requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (ii) the request lacks specificity;
 - (iii) an exemption makes the record not subject to disclosure;
 - (iv) the University is not the custodian of the requested records;
 - (v) the records do not exist.
 - 4. If appropriate, contact the requestor to see if the request can be narrowed or the scope of the request clarified.
 - 5. Forward the records request to the appropriate records custodian.

6. If the Coordinator knows that the requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and the coordinator for that entity, if known.
- (3) The University is not required to sort through files to compile information, create records, or recreate records that do not exist.
- (4) Form or Format of Record to be Inspected/Copied. Actual records will be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the records custodian may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws.
- (5) Redaction.
 - (a) With the exception of records which are confidential in their entirety (for example, student education records protected by FERPA), if a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing the records for inspection or copies of the records.
 - (b) Whenever a redacted record is provided, the records custodian should provide the requestor with the basis for redaction. The basis given shall be general in nature and not disclose confidential information.
- (6) Inspection of Records. If the request is to inspect records, the records custodian will arrange a location for the requestor to do so and may, under reasonable circumstances, require an appointment for inspection. Inspection must be made in the presence of the records custodian. Custody of the original record is not to be relinquished.
- (7) Time Required to Produce Records. All efforts will be made to provide the records within a reasonable period of time. If the record cannot be produced within seven (7) business days (i.e., time is needed to determine if the records exist; additional time is needed to search for, retrieve, or otherwise gain access to records; or it will take additional time to redact confidential information from the record), the requestor shall be advised when the record(s) will be available using a Public Records Request Response. If the request will be denied, a Public Records Request Response must be sent within seven (7) business days.

Authority: T.C.A. § 10-7-503.

0240-07-__-.04 Copying of Public Records is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.04 Copying of Public Records

- (1) The records custodian will make copies, or arrange for copies to be made, as well as determine copy fees and charges in the most economic and efficient manner practicable. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor using the Request to Inspect or Copy Public Records form prior to producing the requested copies. Payment of fees and charges are to be made in advance. A requestor will not be allowed to make copies of records with personal equipment, including a camera or cell phone.
- (2) Copy Format
 - (a) Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the records custodian.
 - (b) Electronic data and documents should be copied in a printed format whenever possible.

- (c) No records shall be produced or copied in a form to further a commercial, business, or similar purpose (for example, mailing labels, envelopes, lists of telephone numbers, special format on computer disk, etc.).
 - (d) If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the records custodian shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.
 - (e) Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records.
 - (f) If electronic records are provided, they will be produced in read-only format.
- (3) If a records custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall notify the requestor by using the Public Records Request Response form that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable.
 - (4) If a records custodian discovers records responsive to a records request were omitted, the requestor should be contacted concerning the omission and the records produced as quickly as possible.
 - (5) Copies will be available for pickup at a location specified by the records custodian. At the requestor's request, and upon payment of postage, copies will be mailed to the requestor via USPS first-class mail.
 - (6) Fees and Charges.
 - (a) No fees or charges may be imposed for inspection of records, even if copies of records were required to be made to allow for redaction of confidential information.
 - (b) An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the Request to Inspect or Copy Public Records form.
 - (c) MTSU will publish the per page copy charges and a schedule of any other costs on its website or Public Records policy. Labor charges will be calculated and imposed as allowed by the Office of Open Records Counsel.
 - (7) If the total amount of fees, labor/programming charges, and postage is less than twenty dollars (\$20.00), the cost will be waived.

Authority: T.C.A. § 10-7-503.

0240-07-__-.05 Aggregation of Frequent and Multiple Requests is added to Chapter 0240-07-__ Public Records – Inspecting and Copying and shall read as follows:

0240-07-__-.05 Aggregation of Frequent and Multiple Requests

- (1) MTSU will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.
- (2) The level at which records requests will be aggregated is by office.

- (3) The Coordinator is responsible for making the determination that a group of individuals are working in concert. The Coordinator or records custodian must inform the individuals of this determination and that they have the right to appeal the decision to the Office of Open Records Counsel.

Authority: T.C.A. § 10-7-503.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Andy Adams					
J.B. Baker					
Pete DeLay					
Darrell Freeman, Sr.					
Joey Jacobs					
Christine Karbowskiak					
Stephen B. Smith					
Pamela Wright					
Tony Johnston					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the *(board/commission/other authority)* on _____ *(date as mm/dd/yyyy)*, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: _____

Signature: _____

Name of Officer: Heidi Zimmerman

Title of Officer: University Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Agency/Board/Commission: Middle Tennessee State University

Rule Chapter Number(s): Chapter 0240-07-

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule is not anticipated to have an impact on small businesses.

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule is not anticipated to have an impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Previously, MTSU adopted and followed the Comptroller’s Office of the Open Records model policy related to responding to requests for public records. The proposed rule does not materially change MTSU’s previous policy or processes for responding to such requests.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 10-7-503(g)(2) requires state government entities to promulgate rules regarding public records that meet the requirements of T.C.A. § 10-7-503(g)(1).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The MTSU Board of Trustees urges adoption. Individuals/entities that wish to review public records of the State of Tennessee are directly affected by this rule. MTSU believes the rule is consistent with the intent of the law, namely to create transparency in its operations, but does not know whether interested individuals/entities would urge adoption or rejection of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None known.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency’s annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Heidi Zimmerman, MTSU University Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Heidi Zimmerman, MTSU University Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Heidi Zimmerman

SS-7038 (November 2017)

MTSU University Counsel
1301 E. Main Street, CAB 209
Murfreesboro, TN 37132
615-898-2025
Heidi.zimmerman@mtsu.edu

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

INSERT REDLINE HERE – ALL UNDERLINED



120 Public Records-Inspecting and Copying

Approved by Board of Trustees

Effective Date: _____, 2018

Responsible Division: President

Responsible Office: Office of the University Counsel

Responsible Officer: University Counsel

I. Purpose

Pursuant to T.C.A. § 10-7-503(g), this policy, approved by the Middle Tennessee State University Board of Trustees (Board), establishes the process under Tennessee's Public Records Act for making and responding to requests to inspect and/or copy records, including redaction practices; the fees charged for copies of public records; the procedures for billing and payment; and the name or title and contact information of the public records request coordinator. In accordance with T.C.A. § 10-7-503, all records made or received pursuant to law or in connection with the transaction of official Middle Tennessee State University (MTSU or University) business shall, at all times during business hours, be open for personal inspection by any citizen of Tennessee and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by State law. T.C.A. § 10-7-503(a)(2)(A).

Personnel of MTSU shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records, and this policy shall not be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the University, shall be protected as provided by law. Concerns about this policy should be addressed to the Public Records Request Coordinator for MTSU or to the Tennessee Office of Open Records Counsel.

This policy shall be applied consistently within the various offices, departments, and divisions of MTSU.

II. Definitions

- A. **Records Custodian.** The MTSU office(s) or employee(s) lawfully responsible for the direct custody and care of a public record. A records custodian is not

necessarily the original preparer or producer of the record. An entity such as MTSU has multiple records custodians.

- B. **Public Records.** All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, electronic mail messages, films, sound recordings, or other material regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official University business and required to be open to inspection under the provisions of Tennessee law. It should be noted that the disclosure of student records is governed by the Family Educational Rights and Privacy Act (FERPA) and [Policy 500 Access to Education Records](#) and, therefore, such records are not subject to this policy.
- C. **Public Records Request Coordinator.** The individual (or designee) responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Public Records Act. The University Counsel or designee is designated as the Public Records Request Coordinator and may be contacted at (615) 898-2025 or in 209 Cope Administration Building, MTSU, 1301 East Main Street, Murfreesboro, Tennessee 37132.
- D. **Requestor.** A person seeking access to a public record, whether it is for inspection or duplication.
- E. **Employee Records.** All records related to current or former employees (faculty, staff, graduate assistants, etc.) or applicants to such positions, excluding that information deemed confidential by statute, that are maintained in the Office of Human Resource Services (HRS), Payroll Office, Accounting Office, and any other department that may maintain records that include information on employees. Note that records pertaining to employment of student workers are confidential under FERPA.
- F. **Confidential Information.** Records or information in public records that shall not be open for public inspection under the Tennessee Public Records laws, include, but are not limited to, the following and any other information so defined by statute.
 - 1. **Employee Information.** The following records or information for any employee, former employee, or applicant to such position:
 - a. Home telephone and personal cell phone numbers;
 - b. Bank account, individual health savings account, retirement account, and pension account information;

- c. Social Security number;
 - d. Residential information, including the street address, city, state, and zip code;
 - e. Driver's license information, except where driving or operating a vehicle is part of the employee's job description, job duties, or incidental to the performance of his/her job;
 - f. The information listed in Items a.-e. above concerning immediate family members, whether or not the immediate family member resides with the employee or household members;
 - g. Medical information, sick leave documentation, documentation relating to the Americans with Disabilities Act, as amended, or the Family Medical Leave Act, and Employee Assistance Program (EAP) files;
 - h. Emergency contact information;
 - i. Personal nongovernment issued email address;
 - j. Job performance evaluations. For purposes of this policy, job performance evaluations includes, but is not limited to, job performance evaluations completed by supervisors, communications concerning job performance evaluations, self-evaluations of job performance prepared by employees, job performance evaluation scores, drafts, notes, memoranda, and all other records relating to job performance evaluations.
2. Confidential Sponsored Research or Service. For the purposes of T.C.A. § 49-7-120, sponsored research or service means any research, analysis, or service conducted pursuant to grants or contracts between the University and a person or entity. Sponsored research or service records and materials that contain such things as proprietary information, trade secrets, or patentable materials received, generated, ascertained, or discovered during the course of research or service shall not be open for public inspection. The University will, however, make available upon request the title of a sponsored research or service project, names of the researchers, and amounts and sources of funding for the projects.
3. Audit Working Papers. Records of an audit may include paper documents and/or electronic documents. Working papers are prepared from the time auditors first launch their assignments until they write the final reports. The working papers include, but are not limited to, the records of planning and

surveys, the audit program, the results of field work, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda, and all other records relating to the audit or investigation.

4. Donor Records. In accordance with T.C.A. § 49-7-140, Confidentiality of Gift Records, records and information that concern gifts to the University or the University Foundation that include name, address, telephone number, social security number, driver's license information, or any other personally identifiable information about the donor or members of the donor's family shall not be open for inspection. The University or the Foundation will, however, make available upon request an annual report of gifts with the amount of the gift and a general description of its use.
5. Pursuant to T.C.A. § 10-7-504(a)(11), records that are of historical research value that are donated or sold to the archives at the Albert Gore Research Center may be designated as confidential when the owner or donor of such records wishes to place restrictions on access to the records.
6. Information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in T.C.A. § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in T.C.A. § 40-39-202 is confidential and not open for inspection by members of the public. Access to a file, document or data file may be provided if this information is able to be redacted so as not to reasonably identify the individual. This shall not limit access to law enforcement agencies, courts or other governmental agencies or instrumentalities performing official functions.

III. Procedures to Access Public Records

A. Generally.

1. Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee in the office of record during business hours which shall be the business hours of the University's administrative offices.
2. Requests for inspection only may be made orally and cannot be required to be made in writing. Requests for copies, or requests for inspection and copies, must be made in writing. The [Request to Inspect or Copy Public Records form](#) may be used, but a written request in any form or format will be acceptable. Requests may be made to the Public Records Request Coordinator, 209 Cope Administration Building, MTSU, 1301 East Main Street, Murfreesboro, Tennessee 37132, or publicrecords@mtsu.edu.

3. Persons requesting to inspect or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).

B. Public Records Request Coordinator.

1. The Public Records Request Coordinator (Coordinator) or designee shall review public record requests and make an initial determination of the following:
 - a. if the requestor provided evidence of Tennessee citizenship;
 - b. if the records requested are described with sufficient specificity to identify them; and
 - c. if MTSU is the custodian of the records.
2. The Coordinator shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - a. Advise the requestor of this policy and the determinations made regarding:
 - (1) proof of Tennessee citizenship;
 - (2) form(s) required for copies;
 - (3) fees and charges, including labor and programming costs;
 - (4) aggregation of multiple or frequent requests.
 - b. If appropriate, deny the request in writing using the [Public Records Request Response](#), which shall indicate the basis for the denial such as:
 - (1) the requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (2) the request lacks specificity;
 - (3) an exemption makes the record not subject to disclosure;
 - (4) the University is not the custodian of the requested records;

- (5) the records do not exist.
 - c. If appropriate, contact the requestor to see if the request can be narrowed.
 - d. Forward the records request to the appropriate records custodian.
 - e. If the Coordinator knows that the requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and the coordinator for that entity, if known.
3. The Coordinator shall annually report to the Board concerning the institution's compliance with the Tennessee Public Records Act and make recommendations, if any, for revisions to this policy.
- C. The University is not required to sort through files to compile information, create records, or recreate records that do not exist.
- D. Form or Format of Record to be Inspected/Copied. The public records laws require that actual records be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the records custodian may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws.
- E. Redaction.
- 1. With the exception of records which are confidential in their entirety (for example, student education records protected by FERPA), if a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing the records for inspection or copies of the records.
 - 2. Whenever a redacted record is provided, the records custodian should provide the requestor with the basis for redaction. The basis given shall be general in nature and not disclose confidential information.
- F. Inspection of Records. If the request is to inspect records, the records custodian will arrange a location for the requestor to do so and may, under reasonable circumstances, require an appointment for inspection. Inspection must be made in the presence of the records custodian. Custody of the original record is not to be relinquished.

- G. **Time Required to Produce Records.** The records custodian shall promptly make the requested public records available. If the record cannot be produced within seven (7) business days (i.e., time is needed to determine if the records exist; additional time is needed to search for, retrieve, or otherwise gain access to records; or it will take additional time to redact confidential information from the record), the requestor shall be advised when the record(s) will be available. All efforts will be made to provide the records within a reasonable period of time. A [Public Records Request Response](#) must be provided. If the request will be denied, a [Public Records Request Response](#) must be sent within seven (7) business days.
- H. **Other Offices to be Notified.** The [Office of News and Media Relations](#) should be notified when records are requested to be inspected/copied that may be deemed sensitive. This office may be required to assist in answering questions, coordinating release of any additional information, and ensuring correct understanding of the records. Further, these offices will be provided copies of inspected and/or copied records upon request or whenever the records custodian believes the circumstances warrant.
- I. **Inspection of Employee Records.**
1. Personnel records of all faculty and staff, including former employees, are subject to inspection/copying under Tennessee's Public Records Law, unless designated as confidential by statute. Persons requesting to inspect/copy personnel records are requested to complete the [Request to Inspect or Copy Public Records form](#) and must show proof of Tennessee citizenship through a government-issued photo identification card. All confidential information must be redacted before inspection/copying. The current employee will be notified that such a request was made and who made the request.
 2. Medical records are maintained separately from personnel records and are considered to be confidential. Examples of medical records include, but are not limited to, sick leave documentation and Employee Assistance Program (EAP) files.
- J. **Question if Document is Open Record.** If it cannot be readily determined whether or not the Tennessee Public Records Law covers a requested document, the records custodian shall refer the matter to the Office of the University Counsel.
- K. **University Departments.** This procedure shall not apply to University departments that request to inspect and/or receive copies of records for University business purposes or records of employees who report to that

department. Notwithstanding, however, the records custodian may require the requesting department to certify the business purpose of the request.

IV. Copying of Public Records

- A. The records custodian will make copies, or arrange for copies to be made, as well as determine copy fees and charges, as stated below, in the most economic and efficient manner practicable. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor using the [Request to Inspect or Copy Public Records form](#) prior to producing the requested copies. Payment of fees and charges are to be made in advance at the cashier's window in the Student Services and Admissions Center and the requestor shall present the receipt to the records custodian. Payment will be credited to the record custodian's account or the account of the department responsible for preparing the records. A requestor will not be allowed to make copies of records with personal equipment, including a camera or cell phone.
- B. Copy Format
1. Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the records custodian.
 2. Electronic data and documents should be copied in a printed format whenever possible. An actual reproduction of the computer tape, etc. should not be provided.
 3. No records shall be produced or copied in a form to further a commercial, business, or similar purpose (for example, mailing labels, envelopes, lists of telephone numbers, special format on computer disk, etc.).
 4. If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the Records Custodian shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.
 5. Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records.
 6. If electronic records are provided, they will be produced in read-only format.
- C. If a records custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or

additional time is necessary to prepare the records for access, the records custodian shall notify the requestor by using the [Public Records Request Response form](#) that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable.

- D. If a records custodian discovers records responsive to a records request were omitted, the requestor should be contacted concerning the omission and the records produced as quickly as possible.
- E. Copies will be available for pickup at a location specified by the records custodian. At the requestor's request, and upon payment of postage, copies will be mailed to the requestor via USPS first-class mail.
- F. Fees and Charges.
 - 1. No fees or charges may be imposed for inspection of records, even if copies of records were required to be made to allow for redaction of confidential information.
 - 2. An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the [Request to Inspect or Copy Public Records form](#).
 - 3. Fees.
 - a. Fifteen cents (\$0.15) per page for letter or legal size black and white copies.
 - b. Fifty cents (\$0.50) per page for letter or legal size color copies.
 - c. The price per copy for larger documents (such as blueprints and other specialized documents) is the actual cost.
 - d. Documentation establishing the amount of the actual cost should be maintained.
 - e. If producing copies utilizing the front and back of a single piece of paper, a charge for two (2) separate pages may be imposed for each single piece of paper.
 - f. If a record is maintained in color but can be produced in black and white, the requestor shall be given the option of receiving black and white or color copies.

- g. If the determined format of the copy is other than paper photocopy, the requestor shall be charged a reasonable fee. Under special circumstances and depending on how best to reproduce/copy the records, the records custodian, with the approval of the Office of the University Counsel, may negotiate with the requestor the fee to be paid. Documentation establishing the basis of the fee should be maintained.
- h. Actual out-of-pocket costs for flash drives or similar storage devices on which electronic copies are provided may be charged. If a record is produced in electronic form, a per page fee is allowed to be charged if the custodian was required to print or produce a paper version of the record in order to create the electronic copy (for example, if a paper copy is printed in order to redact information).
- i. Any actual delivery costs incurred by the University, such as postal fees, will be added to the final bill for records.

4. Labor Charges.

- a. A records custodian shall utilize the most cost efficient method of producing requested records. Accordingly, the records custodian should strive to utilize employees at the lowest practicable hourly wage to fulfill the records request.
 - b. Labor is the time (in hours) reasonably necessary to produce requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records. Labor also includes the time reasonably necessary to extract information requested from a database.
- F. The labor threshold is the first (1st) hour of labor reasonably necessary to produce requested records. The cost of labor exceeding the labor threshold will be charged to the requestor.
- G. Labor charges must be paid by the requestor to obtain copies of the records. A receipt upon payment of the fees and charges will be provided.
- H. In calculating the labor charge, the records custodian shall determine the number of hours each employee spent producing a request. The hourly wage of an employee is based upon the base salary and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee's annual salary by the required hours to be work per year.
- I. The records custodian should determine the total amount of labor for each employee and subtract the labor threshold from the highest paid employee spent producing the request. The records custodian should then multiply the

amount of labor for each employee by each employee's hourly wage to calculate the total amount of labor charges associated with the request. The form to record and calculate the labor cost is located at [Calculation of Labor Costs](#). This form is used to tally these charges and the totals are provided to the requestor on the [Request to Inspect or Copy Public Records form](#).

- J. If the requested records exist electronically, but not in the format requested, a new or modified computer program or application is necessary to put the records in a readable and reproducible format, or it is necessary to access back up files, the requesting party shall be charged the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing back up files.
- K. If the total amount of fees, labor/programming charges, and postage is less than twenty dollars (\$20.00), the cost will be waived.

V. Aggregation of Frequent and Multiple Requests

- A. MTSU will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.
- B. The level at which records requests will be aggregated is by office.
- C. The Coordinator is responsible for making the determination that a group of individuals are working in concert. The Coordinator or records custodian must inform the individuals of this determination and that they have the right to appeal the decision to the Office of Open Records Counsel.

VI. Documentation of Records Requests.

The records custodian should maintain the following documentation regarding the request to include, as appropriate:

- A. The [Request to Inspect or Copy Public Records form](#), or other documentation used to request copies of records.
- B. Labor Cost form(s) and any documentation necessary to substantiate the charges.
- C. Copies of receipts for payment of fees and charges.
- D. Correspondence with the requestor.

Forms:

[Request to Inspect or Copy Public Records](#)

[Public Records Request Response](#)

[Calculation of Labor Cost](#)

Revisions: June 5, 2017; _____, 2018.

References: T.C.A. §§ 10-7-503; 10-7-504; 40-39-202; Family Educational Rights and Privacy Act (FERPA); 49-7-120; 49-7-140 Confidentiality of Gift Records; Policy 500 Access to Education Records.



120 Public Records-Inspecting and Copying

Approved by Board of Trustees

Effective Date: ~~June 5, 2017~~ _____, 2018

Responsible Division: President

Responsible Office: Office of the University Counsel

Responsible Officer: University Counsel

I. Purpose

Pursuant to T.C.A. § 10-7-503(g), this policy, approved by the Middle Tennessee State University Board of Trustees (Board), establishes the process under Tennessee's Public Records Act for making and responding to requests to inspect and/or copy records, including redaction practices; the fees charged for copies of public records; the procedures for billing and payment; and the name or title and contact information of the public records request coordinator. In accordance with T.C.A. § 10-7-503, all records made or received pursuant to law or in connection with the transaction of official Middle Tennessee State University (MTSU or University) business shall, at all times during business hours, be open for personal inspection by any citizen of Tennessee and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by State law. T.C.A. § 10-7-503(a)(2)(A).

Personnel of MTSU shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records, and this policy shall not be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the University, shall be protected as provided by law. Concerns about this policy should be addressed to the Public Records Request Coordinator for MTSU or to the Tennessee Office of Open Records Counsel.

This policy shall be applied consistently within the various offices, departments, and divisions of MTSU.

II. Definitions

- A. Records Custodian. The MTSU office(s) or employee(s) lawfully responsible for the direct custody and care of a public record. A records custodian is not

necessarily the original preparer or producer of the record. An entity such as MTSU has multiple records custodians.

- B. Public Records. All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, electronic mail messages, films, sound recordings, or other material regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official University business and required to be open to inspection under the provisions of Tennessee law. It should be noted that the disclosure of student records is governed by the Family Educational Rights and Privacy Act (FERPA) and [Policy 500 Access to Education Records](#) and, therefore, such records are not subject to this policy.
- C. Public Records Request Coordinator. The individual (or designee) responsible for ensuring that public records requests are routed to the appropriate records custodian and that requests are fulfilled in accordance with the Public Records Act. The University Counsel or designee is designated as the Public Records Request Coordinator and may be contacted at (615) 898-2025 or in 209 Cope Administration Building, MTSU, 1301 East Main Street, Murfreesboro, Tennessee 37132.
- D. Requestor. A person seeking access to a public record, whether it is for inspection or duplication.
- E. Employee Records. All records related to current or former employees (faculty, staff, graduate assistants, etc.) or applicants to such positions, excluding that information deemed confidential by statute, that are maintained in the Office of Human Resource Services (HRS), Payroll Office, Accounting Office, and any other department that may maintain records that include information on employees. Note that records pertaining to employment of student workers are confidential under FERPA.
- F. Confidential Information. Records or information in public records that shall not be open for public inspection under the Tennessee Public Records laws, include, but are not limited to, the following and any other information so defined by statute. ~~T.C.A. § 10-7-504:~~
 - 1. Employee Information. The following records or information for any employee, former employee, or applicant to such position:
 - a. Home telephone and personal cell phone numbers;
 - b. Bank account, individual health savings account, retirement account, and pension account information;

- c. Social Security number;
 - d. Residential information, including the street address, city, state, and zip code;
 - e. Driver's license information, except where driving or operating a vehicle is part of the employee's job description, job duties, or incidental to the performance of his/her job;
 - f. The information listed in Items a.-e. above concerning immediate family members, whether or not the immediate family member resides with the employee or household members;
 - g. Medical information, sick leave documentation, documentation relating to the Americans with Disabilities Act, as amended, or the Family Medical Leave Act, and Employee Assistance Program (EAP) files;
 - h. Emergency contact information;
 - i. Personal nongovernment issued email address;
 - j. Job performance evaluations. For purposes of this policy, job performance evaluations includes, but is not limited to, job performance evaluations completed by supervisors, communications concerning job performance evaluations, self-evaluations of job performance prepared by employees, job performance evaluation scores, drafts, notes, memoranda, and all other records relating to job performance evaluations.
2. Confidential Sponsored Research or Service. For the purposes of T.C.A. § 49-7-120, sponsored research or service means any research, analysis, or service conducted pursuant to grants or contracts between the University and a person or entity. Sponsored research or service records and materials that contain such things as proprietary information, trade secrets, or patentable materials received, generated, ascertained, or discovered during the course of research or service shall not be open for public inspection. The University will, however, make available upon request the title of a sponsored research or service project, names of the researchers, and amounts and sources of funding for the projects.
3. Audit Working Papers. Records of an audit may include paper documents and/or electronic documents. Working papers are prepared from the time auditors first launch their assignments until they write the final reports. The working papers include, but are not limited to, the records of planning and

surveys, the audit program, the results of field work, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda, and all other records relating to the audit or investigation.

4. Donor Records. In accordance with T.C.A. § 49-7-140, Confidentiality of Gift Records, records and information that concern gifts to the University or the University Foundation that include name, address, telephone number, social security number, driver's license information, or any other personally identifiable information about the donor or members of the donor's family shall not be open for inspection. The University or the Foundation will, however, make available upon request an annual report of gifts with the amount of the gift and a general description of its use.
5. Pursuant to T.C.A. § 10-7-504(a)(11), records that are of historical research value that are donated or sold to the archives at the Albert Gore Research Center may be designated as confidential when the owner or donor of such records wishes to place restrictions on access to the records.

5-6. Information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in T.C.A. § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in T.C.A. § 40-39-202 is confidential and not open for inspection by members of the public. Access to a file, document or data file may be provided if this information is able to be redacted so as not to reasonably identify the individual. This shall not limit access to law enforcement agencies, courts or other governmental agencies or instrumentalities performing official functions.

III. Procedures to Access Public Records

A. Generally.

1. Except for confidential records as prescribed by law, public records will be open for inspection by citizens of Tennessee in the office of record during business hours which shall be the business hours of the University's administrative offices.
2. Requests for inspection only may be made orally and cannot be required to be made in writing. Requests for copies, or requests for inspection and copies, must be made in writing. The [Request to Inspect or Copy Public Records form](#) may be used, but a written request in any form or format will be acceptable. Requests may be made to the Public Records Request Coordinator, 209 Cope Administration Building, MTSU, 1301 East Main Street, Murfreesboro, Tennessee 37132, or publicrecords@mtsu.edu.

3. Persons requesting to inspect or copy records must show proof of Tennessee citizenship with a government-issued photo identification card including the person's address (i.e., driver's license, voter's registration, etc.).

B. Public Records Request Coordinator.

1. The Public Records Request Coordinator (Coordinator) or designee shall review public record requests and make an initial determination of the following:
 - a. if the requestor provided evidence of Tennessee citizenship;
 - b. if the records requested are described with sufficient specificity to identify them; and
 - c. if MTSU is the custodian of the records.
2. The Coordinator shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - a. Advise the requestor of this policy and the determinations made regarding:
 - (1) proof of Tennessee citizenship;
 - (2) form(s) required for copies;
 - (3) fees and charges, including labor and programming costs;
 - (4) aggregation of multiple or frequent requests.
 - b. If appropriate, deny the request in writing using the [Public Records Request Response](#), which shall indicate the basis for the denial such as:
 - (1) the requestor is not, or has not presented evidence of being, a Tennessee citizen;
 - (2) the request lacks specificity;
 - (3) an exemption makes the record not subject to disclosure;
 - (4) the University is not the custodian of the requested records;

- (5) the records do not exist.
 - c. If appropriate, contact the requestor to see if the request can be narrowed.
 - d. Forward the records request to the appropriate records custodian.
 - e. If the Coordinator knows that the requested records are in the custody of a different governmental entity, advise the requestor of the correct governmental entity and the coordinator for that entity, if known.
3. The Coordinator shall annually report to the Board concerning the institution's compliance with the Tennessee Public Records Act and make recommendations, if any, for revisions to this policy.
- C. The University is not required to sort through files to compile information, create records, or recreate records that do not exist.
- D. Form or Format of Record to be Inspected/Copied. The public records laws require that actual records be produced or used for viewing and/or copying. The nature of certain records and applicable confidentiality requirements, however, may result in providing the requested record/information in a form or format other than the original records form or format. In such cases, the records custodian may coordinate with the requestor to find an alternate form or means of providing access to the same desired record or information as available under the open records laws.
- E. Redaction.
- 1. With the exception of records which are confidential in their entirety (for example, student education records protected by FERPA), if a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing the records for inspection or copies of the records.
 - 2. Whenever a redacted record is provided, the records custodian should provide the requestor with the basis for redaction. The basis given shall be general in nature and not disclose confidential information.
- F. Inspection of Records. If the request is to inspect records, the records custodian will arrange a location for the requestor to do so and may, under reasonable circumstances, require an appointment for inspection. Inspection must be made in the presence of the records custodian. Custody of the original record is not to be relinquished.

- G. **Time Required to Produce Records.** The records custodian shall promptly make the requested public records available. If the record cannot be produced within seven (7) business days (i.e., time is needed to determine if the records exist; additional time is needed to search for, retrieve, or otherwise gain access to records; or it will take additional time to redact confidential information from the record), the requestor shall be advised when the record(s) will be available. All efforts will be made to provide the records within a reasonable period of time. A [Public Records Request Response](#) must be provided. If the request will be denied, a [Public Records Request Response](#) must be sent within seven (7) business days.
- H. **Other Offices to be Notified.** The [Office of News and Media Relations](#) should be notified when records are requested to be inspected/copied that may be deemed sensitive. This office may be required to assist in answering questions, coordinating release of any additional information, and ensuring correct understanding of the records. Further, these offices will be provided copies of inspected and/or copied records upon request or whenever the records custodian believes the circumstances warrant.
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1. Personnel records of all faculty and staff, including former employees, are subject to inspection/copying under Tennessee's Public Records Law, unless designated as confidential by statute. Persons requesting to inspect/copy personnel records are requested to complete the [Request to Inspect or Copy Public Records form](#) and must show proof of Tennessee citizenship through a government-issued photo identification card. All confidential information must be redacted before inspection/copying. The current employee will be notified that such a request was made and who made the request.
 2. Medical records are maintained separately from personnel records and are considered to be confidential. Examples of medical records include, but are not limited to, sick leave documentation and Employee Assistance Program (EAP) files.
- J. **Question if Document is Open Record.** If it cannot be readily determined whether or not the Tennessee Public Records Law covers a requested document, the records custodian shall refer the matter to the Office of the University Counsel.
- K. **University Departments.** This procedure shall not apply to University departments that request to inspect and/or receive copies of records for University business purposes or records of employees who report to that

department. Notwithstanding, however, the records custodian may require the requesting department to certify the business purpose of the request.

IV. Copying of Public Records

- A. The records custodian will make copies, or arrange for copies to be made, as well as determine copy fees and charges, as stated below, in the most economic and efficient manner practicable. An itemized estimate of the charges to be assessed for copies and labor should be provided to the requestor using the [Request to Inspect or Copy Public Records form](#) prior to producing the requested copies. Payment of fees and charges are to be made in advance at the cashier's window in the Student Services and Admissions Center and the requestor shall present the receipt to the records custodian. Payment will be credited to the record custodian's account or the account of the department responsible for preparing the records. A requestor will not be allowed to make copies of records with personal equipment, including a camera or cell phone.
- B. Copy Format
1. Notwithstanding the form of the records, reproduction or copying of records shall be made in a form as best determined by the records custodian.
 2. Electronic data and documents should be copied in a printed format whenever possible. An actual reproduction of the computer tape, etc. should not be provided.
 3. No records shall be produced or copied in a form to further a commercial, business, or similar purpose (for example, mailing labels, envelopes, lists of telephone numbers, special format on computer disk, etc.).
 4. If the requested records exist electronically, but not in the format requested, or a new or modified computer program or application is necessary to put the records in a readable and reproducible format; or it is necessary to access backup files, the Records Custodian shall charge the requestor the actual costs incurred in producing the records in the format requested, or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format, or in accessing backup files.
 5. Records should be produced electronically whenever feasible as a means of utilizing the most cost effective method of producing records.
 6. If electronic records are provided, they will be produced in read-only format.
- C. If a records custodian reasonably determines that production of records should be segmented because the records request is for a large volume of records, or

additional time is necessary to prepare the records for access, the records custodian shall notify the requestor by using the [Public Records Request Response form](#) that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable.

- D. If a records custodian discovers records responsive to a records request were omitted, the requestor should be contacted concerning the omission and the records produced as quickly as possible.
- E. Copies will be available for pickup at a location specified by the records custodian. At the requestor's request, and upon payment of postage, copies will be mailed to the requestor via USPS first-class mail.
- F. Fees and Charges.
 - 1. No fees or charges may be imposed for inspection of records, even if copies of records were required to be made to allow for redaction of confidential information.
 - 2. An itemized estimate of the fees and charges should be provided to the requestor. Payment of this amount must occur prior to copies being made. Payment in full of the actual costs must be made prior to release of the requested copies. Both the estimated charges and the actual charges may be included on the [Request to Inspect or Copy Public Records form](#).
 - 3. Fees.
 - a. Fifteen cents (\$0.15) per page for letter or legal size black and white copies.
 - b. Fifty cents (\$0.50) per page for letter or legal size color copies.
 - c. The price per copy for larger documents (such as blueprints and other specialized documents) is the actual cost.
 - d. Documentation establishing the amount of the actual cost should be maintained.
 - e. If producing copies utilizing the front and back of a single piece of paper, a charge for two (2) separate pages may be imposed for each single piece of paper.
 - f. If a record is maintained in color but can be produced in black and white, the requestor shall be given the option of receiving black and white or color copies.

- g. If the determined format of the copy is other than paper photocopy, the requestor shall be charged a reasonable fee. Under special circumstances and depending on how best to reproduce/copy the records, the records custodian, with the approval of the Office of the University Counsel, may negotiate with the requestor the fee to be paid. Documentation establishing the basis of the fee should be maintained.
- h. Actual out-of-pocket costs for flash drives or similar storage devices on which electronic copies are provided may be charged. If a record is produced in electronic form, a per page fee is allowed to be charged if the custodian was required to print or produce a paper version of the record in order to create the electronic copy (for example, if a paper copy is printed in order to redact information).
- i. Any actual delivery costs incurred by the University, such as postal fees, will be added to the final bill for records.

4. Labor Charges.

- a. A records custodian shall utilize the most cost efficient method of producing requested records. Accordingly, the records custodian should strive to utilize employees at the lowest practicable hourly wage to fulfill the records request.
 - b. Labor is the time (in hours) reasonably necessary to produce requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing the records. Labor also includes the time reasonably necessary to extract information requested from a database.
- F. The labor threshold is the first (1st) hour of labor reasonably necessary to produce requested records. The cost of labor exceeding the labor threshold will be charged to the requestor.
- G. Labor charges must be paid by the requestor to obtain copies of the records. A receipt upon payment of the fees and charges will be provided.
- H. In calculating the labor charge, the records custodian shall determine the number of hours each employee spent producing a request. The hourly wage of an employee is based upon the base salary and does not include benefits. If an employee is not paid on an hourly basis, the hourly wage shall be determined by dividing the employee's annual salary by the required hours to be work per year.
- I. The records custodian should determine the total amount of labor for each employee and subtract the labor threshold from the highest paid employee spent producing the request. The records custodian should then multiply the

amount of labor for each employee by each employee's hourly wage to calculate the total amount of labor charges associated with the request. The form to record and calculate the labor cost is located at [Calculation of Labor Costs](#). This form is used to tally these charges and the totals are provided to the requestor on the [Request to Inspect or Copy Public Records form](#).

- J. If the requested records exist electronically, but not in the format requested, a new or modified computer program or application is necessary to put the records in a readable and reproducible format, or it is necessary to access back up files, the requesting party shall be charged the actual costs incurred in producing the records in the format requested or in creating or modifying a computer program or application necessary to put the records in a readable and reproducible format or in accessing back up files.
- K. If the total amount of fees, labor/programming charges, and postage is less than fivetwenty dollars (\$520.00), the cost will be waived.

V. Aggregation of Frequent and Multiple Requests

- A. MTSU will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel when more than four (4) requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert.
- B. The level at which records requests will be aggregated is by office.
- C. The Coordinator is responsible for making the determination that a group of individuals are working in concert. The Coordinator or records custodian must inform the individuals of this determination and that they have the right to appeal the decision to the Office of Open Records Counsel.

VI. Documentation of Records Requests.

The records custodian should maintain the following documentation regarding the request to include, as appropriate:

- A. The [Request to Inspect or Copy Public Records form](#), or other documentation used to request copies of records.
- B. Labor Cost form(s) and any documentation necessary to substantiate the charges.
- C. Copies of receipts for payment of fees and charges.
- D. Correspondence with the requestor.

Forms:

[Request to Inspect or Copy Public Records](#)

[Public Records Request Response](#)

[Calculation of Labor Cost](#)

Revisions: ~~none~~ June 5, 2017; _____, 2018.

References: T.C.A. §§ 10-7-503; 10-7-504; 40-39-202; Family Educational Rights and Privacy Act (FERPA); 49-7-120; 49-7-140 Confidentiality of Gift Records; Policy 500 Access to Education Records.



**Middle Tennessee State University
Audit and Compliance Committee**

Tuesday, November 13, 2018

Tab 4

**Results of External Review
Tennessee Small Business Development Center**



**Middle Tennessee State University
Board of Trustees**

MEETING: Audit and Compliance Committee
Results of External Review –
SUBJECT: Tennessee Small Business
Development Center
DATE: November 13, 2018
PRESENTER: Brenda Burkhart
ACTION: Informational

BACKGROUND INFORMATION:

The Board of Trustees Policies on Board Committees, Section 12.2 states, “The Audit and Compliance Committee is responsible for and shall make recommendations to the Board related to: (3) Audit issues reported in the University’s external audits or reviews.” Below is a summary of the positive results received as the result of an external review of the Tennessee Small Business Development Center (TSBDC) which is hosted by MTSU.

On October 2, 2018, the TSBDC Network received the results of the Biennial Programmatic Review performed by the U.S. Small Business Administration for the federal fiscal year 2018. The review was conducted as an onsite review and incorporated the on-site monitoring reviews completed during the assessment period. The onsite review reports in 2017 and 2018 contained no compliance findings. The Biennial Programmatic Review report concluded that no required actions were needed at this time.

Per the report: *The purpose of the review was to fulfil the programmatic management oversight function of the Small Business Administration (SBA) in accordance with 15 USC 648 § 21(k) (1) of the Small Business Act (the Act) and the Code of Federal Regulations (CFR) 13, Part 130.180(a). The report also examines the TSBDC network’s operational and performance effectiveness in its delivery of services to the small business community and compliance with program policies, operating procedures, and applicable laws and regulations.*



**Middle Tennessee State University
Audit and Compliance Committee**

Tuesday, November 13, 2018

Tab 5

Quarterly Report
Results of Internal Audit Reports



**Middle Tennessee State University
Board of Trustees**

MEETING: Audit and Compliance Committee
SUBJECT: Quarterly Report – Results of Internal
Audit Reports
DATE: November 13, 2018
PRESENTER: Brenda Burkhart
ACTION: Informational

BACKGROUND INFORMATION:

MTSU Policy 70 Internal Audit section IX. F requires significant results of internal audit reports be presented to the Audit and Compliance Committee quarterly.

Since the last quarterly report of audit results to the Audit and Compliance Committee, the following two audit reports have been issued:

- 1) Audit of Inventories for Fiscal Year Ended June 30, 2018 concluded the year-end inventory counts were accurate and in compliance with the inventory procedures. There were no reportable issues.
- 2) Review of Marketing and Communications Contest Entry Fees for Fiscal Years 2016-2018 addressed a complaint questioning the appropriateness of using departmental funds to pay entry fees for industry contests. The audit concluded the entry fee expense ranged from \$7,365 to \$11,735 for the three fiscal years and was a small percentage of the division's budget. The business purpose of the entry fee expense was an opportunity for the creative work of the employees to be judged/evaluated by peers outside of the university.

The current status of the Internal Audit Plan for Fiscal Year Ended June 30, 2019 is included for the Committee's review.

**Middle Tennessee State University
Internal Audit Plan
Fiscal Year Ended June 30, 2019
as of October 31, 2018**

Type	Area	Audit Project	Current Status	Audit Results
R	FM	Year-End Inventory FY2018	Report Issued 9/26/18	No Reportable Issues
R	FM	Cash Counts FY2018	Memo to Management 8/8/18	No Reportable Issues
R	GV	Audit of President's Office	Draft Report	
I	SS	INV1602	Draft Report	
I	AA	INV1604	In Progress	
I	SS	INV1702	In Progress	
I	MC	Review of Marketing and Communications Contest Entry Fees for Fiscal Years 2016-2018 (INV1704)	Report Issued 9/5/18	No Reportable Issues
I	AA	INV1705	In Progress	
I	AA	INV1801	Draft Report	
I	AT	INV1802	In Progress	
I	IT	INV1901	Administratively Closed 9/28/18	No Reportable Issues
I	FM	INV1902	Administratively Closed 8/7/18	No Reportable Issues
I	IT	INV1903	In Progress	
R	AT	Football Attendance Fall 2018	In Progress	
F	GV	State Audit Assistance/Follow-Up	Project Throughout Year	n/a
C	GV	General Consultation	Project Throughout Year	n/a
I	GV	Unscheduled Investigations	Project Throughout Year	n/a
R	FM	Cash Counts FY2019	Scheduled	
R	FM	Year-End Inventory FY2019	Scheduled	
P	GV	IIA - Self Assessment & QAR	Scheduled	
S	AA	Use of Aircraft	Scheduled	
A	AA	Research Services Procedural Review	Scheduled	
A	SS	Financial Aid Procedural Review	Scheduled	
A	FM	Property Management Contract Review	Scheduled	

Audit Types:

A - Risk-Based (Assessed)
C - Consulting
F - Follow-up Review
I - Investigation
M - Management's Risk Assessment
P - Project (Ongoing or Recurring)
R - Required
S - Special Request

Area = University Division

AA - Academic Affairs
AD - Advancement
AT - Athletics
FM - Financial Management
GV - Governance/Executive Office
IT - Information Technology
MC - Marketing and Communications
SS - Student Services

