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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

**Agency/Board/Commission:** Department of Labor and Workforce Development  
**Division:** Legal  
**Contact Person:** Chance Deason  
**Address:** 220 French Landing Drive, 4A Nashville TN.  
**Phone:** 37243  
**Email:** 615-532-6699  
Chance.deason@tn.gov

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

**ADA Contact:** Chance Deason  
**Address:** 220 French Landing Drive, 4A Nashville TN.  
**Phone:** 615-532-6699  
**Email:** 615-532-6699

**Hearing Location(s)** (for additional locations, copy and paste table)

|                |                               |
|----------------|-------------------------------|
| Address 1:     | Volunteer Room                |
| Address 2:     | 220 French Landing Drive, 1-A |
| City:          | Nashville, TN                 |
| Zip:           | 37243                         |
| Hearing Date : | April 30, 2019                |
| Hearing Time:  | 10:00 am                      |

\_X\_CST/CDT \_\_\_EST/EDT

**Additional Hearing Information:**

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

| <b>Chapter Number</b> | <b>Chapter Title</b>                    |
|-----------------------|---|
| 0800-08               | Inspection and Copies of Public Records |
| <b>Rule Number</b>    | <b>Rule Title</b>                       |
| 0800-08-01-.01        | Purpose and Scope                       |

|                |   |
|----------------|---|
| 0800-08-01-.02 | Definitions   |
| 0800-08-01-.03 | Requesting Access to Public Records                     |
| 0800-08-01-.04 | Responding to Public Records Requests                   |
| 0800-08-01-.05 | Inspection of Records                                   |
| 0800-08-01-.06 | Copies of Records                                       |
| 0800-08-01-.07 | Fees and Charges and Procedures for Billing and Payment |

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Paragraphs (1) and (2) of 0800-08-01-.01 Purpose and Scope are amended to reflect current law and policy. Paragraph (3) is added to further clarify the purpose for these open records rules. 0800-08-01-.02 Definitions is amended as below to ensure that the definitions are consistent with terms in the body of the proposed amended rules. 0800-08-01-.03 is changed from "Charging for Copies of Public Records" to "Requesting Access to Public Records" to alert the requesting party of proper procedure to request records of the TDLWD. 0800-08-01-.04 is added to alert the requesting party to the process the TDLWD will utilize to respond to open records act requests. 0800-08-01-.0 is added to notify the requestor that no fees will be collected by TDLWD for only inspecting TDLWD records. 0800-08-01-.06 is added to further notify the requesting party of how TDLWD will respond to an open records request (i.e. in an economical and efficient manner; as well as conditions for use of personal equipment to make copies). 0800-08-01-.07 is added to notify the requestor of applicable fees and charges for copies of public records as well as to the acceptable manner and timing of payments of any fees charged by the TDLWD in responding to an open records request.

Amended Rules  
of the  
Tennessee Department of Labor and Workforce Development

Chapter 0800-08-01  
Inspection and Copies of Public Records

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| 0800-08-01-.04 | Responding to Public Records Requests |                |   |

0800-08-01-.01 Purpose and Scope.

- (1) Pursuant to Tenn. Code Ann. § 10-7-503(g), the following rules regarding public records for the Tennessee Department of Labor & Workforce Development are adopted to provide economical and efficient access to public records as provided under the Tennessee Public Records Act ("TPRA") in Tenn. Code Ann. § 10-7-501, et seq.
- (2) The TPRA provides that all state, county and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the Tennessee Department of Labor & Workforce Development are presumed to be open for inspection unless otherwise provided by law.
- (3) Designated personnel of the Tennessee Department of Labor & Workforce Development shall promptly provide access and assistance to persons properly requesting to inspect or receive copies of public records. No provisions of these rules shall 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 Tennessee Department of Labor & Workforce Development shall be protected as provided by current law. Questions regarding public record requests should be addressed to the Records Custodian for the Tennessee Department of Labor & Workforce Development.

*Authority: T.C.A. §§ 10-7-501, 10-7-503.*

0800-08-01-.02 Definitions.

- (1) "TDLWD" means the State of Tennessee, Tennessee Department of Labor & Workforce Development.
- (2) "OORC" means the Office of Open Records Counsel.
- (3) "Public Records" or "Records" means 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 provided under the Tennessee Public Records Act ("TPRA") in Tenn. Code Ann. § 10-7-501, et seq. See Tenn. Code Ann. § 10-7-503(a)(1)(A).

(Rule 0800-08-01-.02, continued)

- (4) "Public Records Request Coordinator" means the person designated by the TDLWD to facilitate timely responses to public records requests.
- (5) "Requestor" means the citizen seeking access to a public record, whether it is for inspection or duplication.
- (6) "Tennessee Public Records Act" or "TPRA" means the State law codified in T.C.A. § 10-7-501, et seq., regarding access to public records.

*Authority: T.C.A. §§ 10-7-501, 10-7-503.*

#### 0800-08-01-.03 Requesting Access to Public Records

- (1) Public record requests shall be made to the Public Records Request Coordinator ("PRRC") or his/her designee in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- (4) Requests for inspection only may be made orally or in writing. The PRRC should request an email or mailing address from the requestor for providing any written communication required under the TPRA.
- (5) Requests for inspection or duplication of public records may be made orally or in writing at 220 French Landing Drive, 4-A, Nashville TN, 37243 or by email to: [TDLWD.PublicRecords@tn.gov](mailto:TDLWD.PublicRecords@tn.gov)
- (4) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or alternative form of identification may be required as a condition to inspect or receive copies of public records.

*Authority: T.C.A. § 10-7-503*

#### 0800-08-01-.04 Responding to Public Records Requests

- (1) The "PRRC" and Records Custodian shall review public record requests and make an initial determination of the following:
  - (a) If the records requested are described with sufficient specificity to identify them; and
  - (b) If the Tennessee Department of Labor & Workforce Development is the custodian of the records.

- (2) The "PRRC" and/or Records Custodian shall acknowledge receipt of the request and take any of the following appropriate action(s):
  - (a) Advise the requestor of these Rules and the elections made regarding:
    1. Form(s) required for copies;
    2. Fees; and
    3. Aggregation of multiple or frequent requests.
  - (b) If appropriate, deny the request, providing the appropriate ground such as one of the following:
    1. The request lacks specificity;
    2. An exemption makes the record not subject to disclosure by law (absent any required signed authorization, subpoena or court order issued by a state or federal court);
    3. The Tennessee Department of Labor & Workforce Development is not the custodian of the requested records;
    4. 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 in the TDLWD.
  - (e) If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity for that entity if known.
- (3) Upon receiving a valid public records request, a records custodian shall promptly make requested public records available in accordance with T.C.A. § 10-7-503. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the TDLWD's Attorneys or the OORC.
- (4) If not practicable to timely provide requested records then a records custodian shall notify the requestor that additional time will be necessary.
- (5) If a records custodian denies a public record request, he or she shall deny the request in writing as provided herein.
- (6) If a records custodian reasonably determines 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 that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the request can be narrowed.
- (6) Redaction: 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 access. If

(Rule 0800-08-01-.04, continued)

questions arise concerning redaction, the records custodian should coordinate with counsel or other appropriate parties regarding review and redaction of records. The records custodian may also consult with the OORC or with the Office of Attorney General and Reporter.

*Authority: T.C.A. §10-7-503.*

#### 0800-08-01-.05 Inspection of Records

- (1) There shall be no charge for inspection of open public records.
- (2) The location for inspection of records within the offices of the Tennessee Department of Labor & Workforce Development should be determined by the records custodian.
- (3) A records custodian may require an appointment for inspection and shall be present during the inspection process.

*Authority: T.C.A. § 10-7-503.*

#### 0800-08-01-.06 Copies of Records

- (1) A records custodian shall respond to a public record request for copies in the most economic and efficient manner practicable.
- (2) Copies will be available for pickup at a location specified by the PRRC or records custodian, or may be delivered to the mailing address specified by the requestor.
- (3) If a Requestor desires to use personal equipment to make copies, or images, of records that need redaction by TDLWD staff, applicable fees and charges may be collected by TDLWD prior to the copies or images being made by Requestor.

*Authority: T.C.A. § 10-7-503.*

#### 0800-08-01-.07 Fees and Charges and Procedures for Billing and Payment

- (1) Records custodians shall provide requestors with an itemized estimate of the charges prior to producing copies of records and may require pre-payment of such charges before producing requested records.
- (2) Fees and charges for copies are as follows:
  - (a) Fees and charges for copies will be in accordance with the *OORC Schedule of Reasonable Charges*:
    1. \$0.15 per page for 8 x 11- and 8 ½ x 14 black and white copies.
    2. \$0.50 per page for 8 x 11- and 8 ½ x 14 color copies.

(Rule 0800-08-01-.07, continued)

3. Labor at the hourly wage of the employee(s) reasonably necessary to produce the requested information when time exceeds 1 hour.
  4. If an outside vendor is used, the actual costs assessed by the vendor.
  5. For storage devices, such as flash drives, and other office items, the cost incurred by the TDLWD.
- (b) If the fees and charges noted herein shall conflict with the *OORC Schedule of Reasonable Charges*, the *OORC Schedule of Reasonable Charges* shall control.
- (c) Fees may be waived if waiver is in the best interest of the TDLWD and for the public good.
- (3) Payments of fees for records shall be made by check or money order payable to the State of Tennessee, Tennessee Department of Labor & Workforce Development. Payment in cash will not be accepted. Payment is due upon production of the requested material. Requestors will not be entitled to receive additional records until all payments for records provided within the previous sixty (60) days have been received.
  - (4) Payment in advance may be required when costs are estimated to exceed \$50.00 or an outstanding balance exceeds \$100.00.
  - (5) If the copies of the requested records are delivered by mail, the costs of standard delivery, including postage, may be included in the copy charge. Any charges for non-standard delivery shall be borne by the requesting party.
  - (6) Unless otherwise agreed, TDLWD will not aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert).

*Authority: T.C.A. § 10-7-503 & T.C.A. § 10-7-506(a).*

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: March 7, 2019

Signature: [Handwritten Signature]

Name of Officer: Chance Deason

Title of Officer: General Counsel

Subscribed and sworn to before me on: March 8, 2019

Notary Public Signature: Linda R. Richardson

My commission expires on: 3-8-22



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Filed with the Department of State on: 3/9/19

[Handwritten Signature]

Tre Hargett  
Secretary of State

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