

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

TITLE 31: PUBLIC SAFETY

PART 5: PUBLIC RECORDS POLICY ADMINISTRATIVE CODE

Part 5 Chapter 1 Purpose and Authority

Rule 1.1 Statutory Authority and Purpose

1. The Public Records Policy of the Mississippi Department of Public Safety is promulgated pursuant to the Mississippi Public Records Act of 1983, *Miss. Code Ann.* § 25-61-1, *et seq.*, as amended (“the Act”). All records and portions of records which are not exempt from disclosure will be available as set forth in these procedures.
 - a. “It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act. Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records.” *Miss. Code Ann.* § 25-61-1.
 - b. “All public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body.” *Miss. Code Ann.* § 25-61-5.
 - c. The Act defines “public record” to include any “all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.” *Miss. Code Ann.* § 25-61-3(b).
2. The purpose of these rules is to establish the procedures that the Mississippi Department of Public Safety will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Mississippi Department of Public Safety and establish processes for both requestors and Mississippi Department of Public Safety staff that are designed to best assist members of the public in obtaining such access.

3. The purpose of the Act is to provide the public full access to public records concerning the conduct of government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the Mississippi Department of Public Safety will be guided by the provisions of the Act describing its purposes and interpretation.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 1.2 Definitions

1. “Public Record” means any book, record, paper, account, letter, map, photograph, film, card, tape, recording or reproduction thereof, and any other documentary material, regardless of physical form or characteristic, having been used, being in use or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction work, duty or function of the Mississippi Department of Public Safety, or required to be maintained by the Department.
2. “Non-Exempt Record” refers to the part of a public record which does not fall under one of the exceptions to or exemptions from disclosure in the Public Records Act.
3. An “Identifiable Record” is a record that is identifiable if a reasonably specific description of the record has been given, such as the date of the record, the subject matter, division or person involved, etc., which will permit location or retrieval of the record.
4. A “Working Day” is any day other than a weekend, state holiday or other day on which, by executive order, the Mississippi Department of Public Safety is authorized to be closed, or the employees of the Mississippi Department of Public Safety are authorized to be absent.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Part 5 Chapter 2 Description and Officer

Rule 2.1 Public Body Description – Contact Information – Public Records Officer

1. Any person wishing to request access to public records of the Mississippi Department of Public Safety, or seeking assistance in making such a request, must submit the request in writing in accordance with the instructions found on the agency’s website, <http://www.dps.ms.gov>.

Requests by mail should be sent to the following:

Legal Division

Attn: Public Records
P.O. Box 958
Jackson, Mississippi 39205

2. The Legal Division will oversee the Department's compliance with the Act, but one or more additional Department staff members may process the request. Therefore, these rules will refer to the Legal Division or "Public Records Designee." The Legal Division or Public Records Designee and the Mississippi Department of Public Safety will provide the "fullest assistance" to requestors, ensure that public records are protected from damage or disorganization and prevent fulfilling public records requests from causing excessive interference with essential functions of the Mississippi Department of Public Safety.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Part 5 Chapter 3 Availability of Public Records

Rule 3.1 Hours for Inspection of Records

Public records are available for inspection and copying during normal business hours of the Mississippi Department of Public Safety, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the Mississippi Department of Public Safety Headquarters, unless the Department determines that it would be more prudent, efficient and/or advisable to produce such records via mail and/or electronic format. The time, place, and manner of inspection and copying of records will not be allowed to interfere with other essential duties of the Mississippi Department of Public Safety.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 3.2 Organization of Records

The Mississippi Department of Public Safety will maintain its records in a reasonably organized manner. The Mississippi Department of Public Safety will take reasonable actions to protect records from damage and disorganization. A requestor shall not take original records from the Mississippi Department of Public Safety's Headquarters.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Part 5 Chapter 4 Processing of Public Records Requests - General

Rule 4.1 Providing Access to Public Records

The Mississippi Department of Public Safety acknowledges that “providing access to public records is a duty” and that “any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record” in accordance with these policies. *Miss. Code Ann.* §§ 25-61-1 and 25-61-5. The Legal Division or Public Records Designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

Source: *Miss. Code Ann.* §§ 25-61-1, *et seq.*

Rule 4.2 Acknowledging Receipt of Requests

1. Within seven (7) business days of receipt of a request, the Legal Division will do one or more of the following:
 1. Make the records available for inspection or copying;
 2. If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
 3. Provide a reasonable estimate of when records will be available;
 4. If the request is unclear or does not sufficiently identify the requested records, request clarification from requestor. Such clarification may be requested and provided by telephone. The Legal Division or Public Records Designee may revise the estimate of when records will be available; or
 5. Deny the request.
2. Denial of a request shall state the reason(s) for the denial of the request and shall be maintained by the Mississippi Department of Public Safety for not less than three (3) years from the date the denial is made.

Source: *Miss. Code Ann.* §§ 25-61-1, *et seq.*

Rule 4.3 Consequences of Failure to Respond

If the Mississippi Department of Public Safety does not respond in writing within seven (7) business days of receipt of the request for disclosure, the requestor should consider contacting the Legal Division to determine the reason for the failure to respond.

Source: *Miss. Code Ann.* §§ 25-61-1, *et seq.*

Rule 4.4 Records Exempt from Disclosure

1. Some records are exempt from disclosure, in whole or in part. If the Mississippi Department of Public Safety believes that a record is exempt from disclosure and should be withheld, the Legal Division will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld.
2. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Legal Division will redact the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 4.5 Inspection of Records

1. Consistent with other demands, the Mississippi Department of Public Safety shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the Mississippi Department of Public Safety to copy.
2. The requestor must claim or review the assembled records within thirty (30) days of the Mississippi Department of Public Safety's notification to him or her that the records are available for inspection or copying. The Mississippi Department of Public Safety will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the Mississippi Department of Public Safety to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty (30) day period or make other arrangements, the Mississippi Department of Public Safety may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 4.6 Providing Copies of Records

1. After inspection is complete, the Legal Division or designee shall make the requested copies or arrange for copying.
2. Standard photocopies will be provided at \$0.15 cents per page. Additional fees incident to document production may include personnel charges for time expended in the actual

searching, reviewing and/or duplicating of documents and, if applicable, the mailing of copies of requested records.

3. Costs of reproduction will be payable in advance of receipt for documents.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 4.7 Providing Records in Installments

When the request is for a large number of records, the Legal Division or Public Records Designee will provide access for inspection and copying in installments if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty (30) days, the requestor fails to inspect the entire set of records or one or more of the installments, the Legal Division or Public Records Designee may stop searching for the remaining records and close the request.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 4.8 Completion of Inspection

When the inspection of the requested records is complete and all requested copies are provided, the Legal Division or Public Records Designee will indicate that the Mississippi Department of Public Safety has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 4.9 Closing Withdrawn or Abandoned Requests

When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the Legal Division or Public Records Designee will close the request and indicate to the requestor that the Mississippi Department of Public Safety has closed the request.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 4.10 Later Discovered Documents

If, after the Legal Division or Public Record Designee has informed the requestor that it has provided all available records, the Legal Division or Public Record Designee becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Part 5 Chapter 5 Processing of Public Records Requests – Electronic Records

Rule 5.1 Requesting Electronic Records

The process for requesting electronic public records is the same as for requesting paper public records.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 5.2 Providing Electronic Records

When a requestor requests records in an electronic format, the Legal Division or Public Records Designee will provide the non-exempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body and is generally commercially available, or in a format that is reasonably translatable from the format in which the Mississippi Department of Public Safety keeps the record.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 5.3 Customized Access to Databases

With the consent of the requestor, the Mississippi Department of Public Safety may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The Mississippi Department of Public Safety may charge the actual cost for such customized access.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Part 5 Chapter 6 Exemptions

Rule 6.1 Exemptions

The Public Records Act, as well as other statutes and court decisions, provide that a number of types of documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of the following exemptions that restrict the availability of some documents held by the Mississippi Department of Public Safety for inspection and copying:

1. Academic records exempt from public access, see *Miss. Code Ann. § 37-11-51*;
2. Appraisal records exempt from access, see *Miss. Code Ann. § 31-1-27*;

3. Archaeological records exempt from public access, see *Miss. Code Ann.* § 39-7-41;
4. Attorney work product, examination, exemption, see *Miss. Code Ann.* § 25-1-102;
5. Birth Defects Registry, see *Miss. Code Ann.* § 41-21-205;
6. Bureau of vital statistics, access to records, see *Miss. Code Ann.* § 41-57-2;
7. Charitable organizations, registration information, exemption from public access, see *Miss. Code Ann.* § 79-11-527;
8. Concealed pistols or revolvers, licenses to carry, records, exemption, see *Miss. Code Ann.* § 45-9-101;
9. Confidentiality, ambulatory surgical facilities, see *Miss. Code Ann.* § 41-75-19;
10. Defendants likely to flee or physically harm themselves or others, see *Miss. Code Ann.* § 41-32-7;
11. Environmental self-evaluation reports, public records act, exemption, see *Miss. Code Ann.* § 49-2-71;
12. Hospital records, Mississippi Public Records Act exemption, see *Miss. Code Ann.* § 41-9-68;
13. Individual tax records in possession of public body, exemption from public access requirements, see *Miss. Code Ann.* § 27-3-77;
14. Insurance and insurance companies, risk based capital level requirements, reports, see *Miss. Code Ann.* § 83-5-415;
15. Exemption for law enforcement or court personnel information; investigative reports; victim information, see *Miss. Code Ann.* § 25-61-125;
16. Judicial records, public access, exemption, see *Miss. Code Ann.* § 9-1-38;
17. Jury records exempt from public records provisions, see *Miss. Code Ann.* § 13-5-97;
18. Licensure application and examination records. exemption from Public Records Act, see *Miss. Code Ann.* § 73-52-1;
19. Medical examiner, records and reports, see *Miss. Code Ann.* § 41-61-63;
20. Personnel files exempt from examination, see *Miss. Code Ann.* § 25-1-100;

21. Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see *Miss. Code Ann.* § 79-23-1;
22. Workers' compensation, access to records, see *Miss. Code Ann.* § 71-3-66; and
23. Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.

Source: *Miss. Code Ann.* §§ 25-61-1, *et seq.*

Part 5 Chapter 7 Third Party Information

Rule 7.1 Third Party Information

1. When any person files or submits documents with the Mississippi Department of Public Safety which the filer contends are exempt from disclosure under the Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.
2. Any document filed with the Mississippi Department of Public Safety which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, the Mississippi Department of Public Safety shall notify the person who filed the document. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to *Miss. Code Ann.* § 25-61-9.
3. Any person filing documents with the Mississippi Department of Public Safety shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The Mississippi Department of Public Safety shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event, will the Mississippi Department of Public Safety bear any responsibility for a filer's failure to redact such information which leads to or may lead to identity theft or other crime or loss.

Source: *Miss. Code Ann.* §§ 25-61-1, *et seq.*

Part 5 Chapter 8 Costs of Providing Public Records

Rule 8.1 Costs for Paper Copies

1. *Miss. Code Ann.* § 25-61-7(1) reads as follows: “Except as provided in subsection (2) of this section, each public body may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records.”

A requestor may obtain standard black and white photocopies for \$ 0.15 cents per page.

2. Before requested copies are made, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The Legal Division or Public Records Designee may also require the payment of the remainder of the copying costs before providing all the records in an installment before providing that installment. The Mississippi Department of Public Safety will not charge sales tax when it makes copies of public records.
3. Invoice for payment of copies must be returned with payment for copies.

Source: *Miss. Code Ann.* §§ 25-61-1, *et seq.*

Rule 8.2 Costs for Electronic Records

The Mississippi of Public Safety may establish a fee to reimburse it for the costs of providing the requested information on a physical memory storage device. The costs shall be determined based on the actual cost of the memory storage device.

There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee or system costs allowed under *Miss. Code Ann.* § 25-61-7(2). Other costs can include, but are not limited to, time of the lowest paid but qualified staff member to evaluate and research the request, to retrieve any relevant files, to organize the information, to notify any third parties, to develop a cost estimate and schedule, to reproduce any requested material, to observe the inspection of records.

Source: *Miss. Code Ann.* §§ 25-61-1, *et seq.*

Rule 8.3 Costs of Mailing

The Mississippi Department of Public Safety may also charge actual costs of mailing, including the cost of the shipping container.

Source: *Miss. Code Ann.* §§ 25-61-1, *et seq.*

Rule 8.4 Payment

1. Payment may be made by check or money order to the Mississippi Department of Public Safety or in accordance with the instructions found on the agency's website, <http://www.dps.ms.gov>
2. The Mississippi Department of Public Safety may require payment in advance for all costs before providing copies or access to records.
3. Invoice for payment of copies must be returned with payment for copies or access to records.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 8.5 Charges for Searching, Reviewing and Redacting

The actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records, shall be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Part 5 Chapter 9 Review of Denials of Public Records

Rule 9.1 Review by the Ethics Commission

Pursuant to *Miss. Code Ann. § 25-61-13*, if the Mississippi Department of Public Safety denies a requestor access to public records, the requestor may request the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.ms.gov.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*

Rule 9.2 Judicial Review

Any person whose request for public records was denied may institute a suit in the Chancery Court of the First Judicial District of Hinds County, seeking to reverse the denial, as set forth in *Miss. Code Ann. § 25-61-13*.

Source: *Miss. Code Ann. §§ 25-61-1, et seq.*