



Mississippi Department of Human Services

Title 18: Human Services

Part 22: Public Records Request

Part 22 Chapter 1: Rules for Assessing Public Documents

Rule 1.1 Authority and Purpose

Adopted in compliance with the Mississippi Public Records Act of 1983, Miss. Code Ann. §25-61-1 *thru* 25-61-19, and the Mississippi Ethics Commission's Model for Public Records Rules. All records and portions of records not exempt from disclosure will be made available in accordance with the procedures outlined below.

“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.” Section 25-61-1, Miss. Code of 1972.

“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.” Section 25-61-5, Miss. Code of 1972.

The Act defines “public record” to include “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.” Section 25-61-3(b).

The purpose of these rules is to establish the procedures the Mississippi Department of Human Services (MDHS) 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 MDHS and establish processes for both requestors and MDHS staff that are designed to best assist members of the public in obtaining such access.

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, MDHS will be guided by the provisions of the Act describing its purposes and interpretation.

Source: Miss Code Ann. §25-61-1, §25-61-5 & §25-61-3(b) (2016)

Rule 1.2 How to File a Request

Any person wishing to request access to public records of MDHS, or seeking assistance in making such a request should contact MDHS's Director of Communications. All requests to examine, copy, or obtain public records from MDHS must be in writing** and delivered to MDHS via mail, e-mail or in person. The request should provide as much detail as possible about the records being requested, include the preferred format (paper copy, flash drive, electronic or inspection) and must include the name, address, and contact information of the requestor including email address and phone number.

Requests should be sent to:

Mississippi Department of Human Services
Office of Communications
RE: PUBLIC RECORDS REQUEST
750 North State Street
Jackson, MS 39202

Via email: publicrecords@mdhs.ms.gov
Via facsimile: 601.359.4477

This information is also available on the DHS web site at <http://www.mdhs.state.ms.us/>

The Director of Communications will oversee compliance with the Act whereas another MDHS staff member may process the request. Therefore, these rules will refer to the Director of Communications "or designee." The Director of Communications or designee and MDHS will provide the "fullest assistance" to requestor; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of MDHS.

Source: Miss. Code Ann. §25-61-5 (2016)

Rule 1.3 Availability of Public Records

(a) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours at MDHS, Monday through Friday, 8 a.m. to 5 p.m., excluding legal holidays. Records must be inspected at the office of MDHS. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of MDHS.

- (b) **Organization of records.** MDHS will maintain its records in a reasonably organized manner, subject to the rules of record retention. MDHS will take reasonable actions to protect records from damage and disorganization. A requestor shall not take MDHS records from MDHS offices. A variety of records is available on the MDHS web site at <http://www.mdhs.state.ms.us/>. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.
- (c) **Making a request for public records.** Any person wishing to inspect or copy public records of MDHS should make the request in writing on the MDHS request form, or by letter, fax, or e-mail addressed to the Director of Communications and including the following information:
1. Name of requestor;
 2. Address of requestor;
 3. Other contact information, including telephone number and any e-mail address;
 4. Identification of the public records adequate for the Director of Communications or designee to locate the records; and
 5. The date and time of the request.

If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to Rule 1.8 Costs of Providing Public Records of this policy, standard 8 ½” x 11” photocopies will be provided at \$.25 a page. (See 1.8 Costs of Providing Records for additional costs and charges).

A form is available for use by requestors at the office of the Director of Communications and online at <http://www.mdhs.state.ms.us/>.

The Director of Communications or designee may accept requests for public records that contain the above information by telephone or in person. If the Director of Communications or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

Source: Miss Code Ann. 25-61-5 (2016)

Rule 1.4 Processing of public records requests - General

- (a) **Providing access.** MDHS 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. Section 25-61-1 and 25-61-5. The Director of Communications or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.
- (b) **Acknowledging receipt of request.** Within seven (7) business days of receipt of the request, the Director of Communications 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 the records will be available; or
4. If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The Director of Communications or designee may revise the estimate of when records will be available; or
5. Deny the request.

(c) **Consequences of failure to respond.** If MDHS does not respond in writing within seven (7) business days of receipt of the request for disclosure, the requestor should consider contacting the Director of Communications to determine the reason for the failure to respond.

(d) **Timetable for Processing.** All requests to examine, copy or obtain public records will be approved or denied within fourteen (14) working days after the request is received. Some documents are exempt from disclosure (See Rule 1.6 Exemptions) including records furnished to MDHS by third parties referred to below (See Rule 1.7 Third Party Information). Third parties have thirty (30) days from the date of notification to obtain a court order protecting information deemed confidential.

No request will be processed until after payment is received, therefore, depending on when payment is made/or the scope of the request, it may take longer than fourteen (14) working days before the documents are ready for inspection or to be released.

(e) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the Director of Communications will, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(f) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If MDHS believes that a record is exempt from disclosure and should be withheld, the Director of Communications or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Director of Communications or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(g) **Inspection of records.** MDHS 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, if any, he or she wishes MDHS to copy.

The requestor must claim or review the assembled records within thirty (30) days of MDHS's notification to him or her that the records are available for inspection or copying. MDHS will notify the requestor in writing of this requirement and inform the requestor that he or she should contact MDHS 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-day period or make other arrangements, MDHS may close the request and refile the assembled records.

- (h) **Providing copies of records.** After inspection is complete, the Director of Communications or designee shall make the requested copies or arrange for copying.
- (i) **Providing records in installments.** When the request is for a large number of records, the Director of Communications or 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 Director of Communications or designee may stop searching for the remaining records and close the request.
- (j) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the Director of Communications or designee will indicate that MDHS has completed a diligent search for the requested records and made any located nonexempt records available for inspection.
- (k) **Closing withdrawn or abandoned request.** 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 Director of Communications will close the request and indicate to the requestor that MDHS has closed the request.
- (l) **Later discovered documents.** If, after MDHS has informed the requestor that it has provided all available records, MDHS 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 & §25-61-5 (2016)

Rule 1.5 Processing of public records requests – Electronic Records

- (a) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.
- (b) **Providing electronic records.** When a requestor requests records in an electronic format, the Director of Communications will provide the nonexempt 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 public body keeps the record. Costs for providing electronic records are governed by Rule 1.8.

- (c) **Customized access to data bases.** With the consent of the requestor, MDHS may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. MDHS may charge the actual cost for such customized access.

Source: Miss Code Ann. §25-61-3 & §25-61-5 (2016)

Rule 1.6 Exemptions

The Public Records Act, as well as other statutes and court decisions, provide that a number of types of records 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, outside the Publics Records Act, that restrict the availability of some records held by MDHS for inspection and copying:

- (a) **Academic records exempt from public access, see § 37-11-51.**
- (b) **Appraisal records exempt from access, see § 31-1-27.**
- (c) **Archaeological records exempt from public access, see § 39-7-41.**
- (d) **Attorney work product, examination, exemption, see § 25-1-102.**
- (e) **Birth Defects Registry, see § 41-21-205.**
- (f) **Bureau of vital statistics, access to records, see § 41-57-2.**
- (g) **Charitable organizations, registration information, exemption from public access, see § 79-11-527.**
- (h) **Concealed pistols or revolvers, licenses to carry, records, exemption, see § 45-9-101.**
- (i) **Confidentiality, ambulatory surgical facilities, see § 41-75-19.**
- (j) **Defendants likely to flee or physically harm themselves or others, see § 41-32-7.**
- (k) **Environmental self-evaluation reports, public records act, exemption, see § 49-2-71.**
- (l) **Hospital records, Mississippi Public Records Act exemption, see § 41-9-68.**
- (m) **Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77.**
- (n) **Insurance and insurance companies, risk based capital level requirements, reports, see § 83-5-415.**
- (o) **Judicial records, public access, exemption, see § 9-1-38.**
- (p) **Jury records exempt from public records provisions, see § 13-5-97.**
- (q) **Licensure application and examination records, exemption from Public Records Act, see § 73-52-1.**
- (r) **Medical examiner, records and reports, see § 41-61-63.**
- (s) **Personnel files exempt from examination, see § 25-1-100.**
- (t) **Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.**
- (u) **Workers' compensation, access to records, see § 71-3-66.**
- (v) **Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.**

Source: Miss Code Ann. §25-61-11 (2016)

Rule 1.7 Third Party Information

When any person files or submits documents with MDHS 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.

Any document filed with MDHS 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, MDHS 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 Section 25-61-9, Miss. Code Ann. Of 1972.

Any person filing documents with MDHS shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. MDHS shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity. In no event will MDHS 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.

Failure by the third party to clearly identify trade secrets or confidential commercial or financial information on a different color paper than non-confidential pages will result in that information being released subject to a public records request.

Source: Miss Code Ann. §25-61-9 (2016)

Rule 1.8 Costs of providing public records

(a) **Costs for paper copies.** Section 25-61-7(1), Miss. Code of 1972, 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 8 ½" x 11" black and white photocopies for \$.25 cents per page and color copies for \$.50 cents per page. Copy charges for some specific types of records are set by statute and may exceed the amount stated above. Examples of specific MDHS copy charges include, but are not limited to, the following:

8 ½" x 11" – \$.25 per page

8 ½" x 14" – \$.35 per page

11" x 17" – \$.75 per page

\$15 per hour.....for basic copies or clerical assistance

\$15-\$75 per hour....to evaluate, research, redact, reproduce based on the pay scale of the lowest level employee competent to respond to the request

\$40 per hour.....for technical or professional assistance

\$50 per hour.....for automated records search

Actual costs.....for postage, UPS, Federal Express, temporary agency personnel, and reproduction at an outside print facility

MDHS charges \$.25 per page for a standard black and white photocopy of a record selected by a requestor. A statement of the factors and the manner used to determine this charge is available from the Director of Communications.

Before beginning to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The Director of Communication or 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. MDHS will not charge sales tax when it makes copies of public records.

MDHS will notify the requestor of the costs to obtain the information prior to sending the request. The requestor will be required to reimburse MDHS for reasonable costs sufficient to cover the actual expenses incurred by MDHS to furnish the requested information. Payment must be made in advance of the receipt of documents. If the actual cost is higher than the estimate, the requestor will be required to pay the difference before receiving the information. If the actual cost is lower than the estimate, MDHS will refund the difference.

Please note that the following types of public records requests usually require additional research and staff time and can have significant costs associated with filling the request: (1) Requests for very large volumes of materials; (2) Requests that are too broad; (3) Requests that are unspecific in scope; (4) Requests for information that have already been archived; and (5) Requests for documents that are unusual in size.

(b) **Costs for electronic records.** The costs of electronic copies of records shall be determined on a case by case basis for information on a CD-ROM. The cost of scanning existing MDHS paper or other non-electronic records is \$.25 per page. There will be no charge for e-mailing electronic records to a requestor, unless another costs applies. Such costs 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 and to hand deliver the information requested. If necessary, MDHS may engage third parties to perform these tasks. The requestor is required to pay the actual costs of these engagements in advance.

- (c) **Costs of mailing.** MDHS may also charge actual costs of mailing, including the cost of the shipping container.
- (d) **Payment.** Payment may be made by certified check, money order, or corporate check made payable to MDHS for the amount specified. **No cash, personal checks, or credit/debit cards can be accepted.**
- (e) **Charges for searching, reviewing and redacting.** The actual cost for 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.

MDHS may require payment in advance for all costs before providing copies or access to records.

Source: Miss Code Ann. § 25-61-7 (2016)

Rule 1.9 Review of denials of public records

- (a) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the Director of Communications for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the Director of Communications or designee denying the request.
- (b) **Consideration of petition for review.** The Director of Communications must promptly provide the petition and any relevant information to the Executive Director of MDHS or his or designee for immediate consideration of the petition to either affirm or reverse the denial within two (2) business days following MDHS's receipt of the petition, or within such other time as MDHS and the requestor mutually agree.
- (c) **Opinion by the Ethics Commission.** Pursuant to Section 25-61-13, if MDHS denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.
- (d) **Judicial review.** Any person whose request for public records was denied may institute a suit in the Chancery Court of Hinds County, seeking to reverse the denial, as set forth in Section 25-61-13.

Source: Miss Code Ann. §25-61-13 (2016)

Rule 1.10 Public Information via the Internet

Frequently requested information, including many standard records are available free of charge on the MDHS website at <http://www.mdhs.state.ms.us/>. In addition, information on the state budget, expenditures, travel, contracts, leases, workforce and grants is available free of charge at www.transparency.ms.gov.

Source: Miss Code Ann. §25-61-5 (2016)

Rule 1.11 Prescribed Form

Form MDHS ADM-1000, Public Records Request Form, is the prescribed form for making requests in conjunction with this policy.



MISSISSIPPI DEPARTMENT OF HUMAN SERVICES
PUBLIC RECORDS REQUEST FORM

Mail or Hand Deliver to: 750 North State Street, Jackson, MS 39202
Email to: publicrecords@mdhs.ms.gov or Fax to 601.359.4477

Requester Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

Email: _____

Signature: _____ Date: _____

I have read and understand the Administrative Policy No. 8, 'MDHS Public Records Act Policy'

Manner of Compliance: Personally Inspect Request to be Copied

Manner of Deliver Desired: Mail Email Fax

Please provide clear, concise description with dates, if applicable.

Title 18: Human Services

Part 22: Public Records Request

Part 22 Chapter 1: ~~Public Records Act Policy~~ Rules for Assessing Public Documents

~~Rule 1.1~~ **Rule 1.1** ~~Requests.~~ Authority and Purpose All requests for information under the Mississippi Public Records Act (MPRA) or the Freedom of Information Act (FOIA) must be submitted in writing. A request to inspect, copy, or otherwise reproduce documents shall be immediately forwarded to the Division of Human Resources who will handle the disposition of the request.

If the request form is not available in an MDHS location, the telephone number of the Division of Human Resources shall be provided to the requestor so that the form may be furnished to him/her. Written requests for public records presented to any MDHS location shall immediately be forwarded via fax to the Division of Human Resources due to the time sensitive nature of these requests. The hard copy of the request shall then be mailed to the Division of Human Resources at State Office.

Source: *Miss. Code Ann. §25-61-5 (2011)*

Adopted in compliance with the Mississippi Public Records Act of 1983, Miss. Code Ann. §25-61-1 thru 25-61-19, and the Mississippi Ethics Commission's Model for Public Records Rules. All records and portions of records not exempt from disclosure will be made available in accordance with the procedures outlined below.

"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." Section 25-61-1, Miss. Code of 1972.

"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." Section 25-61-5, Miss. Code of 1972.

The Act defines "public record" to include "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 us 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." Section 25-61-3(b).

The purpose of these rules is to establish the procedures the Mississippi Department of Human Services (MDHS) 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 MDHS and establish processes for both requestors and MDHS staff that are designed to best assist members of the public in obtaining such access.

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, MDHS will be guided by the provisions of the Act describing its purposes and interpretation.

Source: Miss Code Ann. §25-61-1, §25-61-5 & §25-61-3(b) (2016)

~~*Rule 1.2:*~~ **Rule 1.2** ~~*Determination if Records May be Produced.*~~ **How to File a Request** ~~The~~ Division of Human Resources will determine, with the assistance of the Attorney General's office, whether the requested records may be released or are exempt from production under the MPRA/FOIA. ~~The~~ Division of Human Resources shall either produce the public record within seven (7) working days of its receipt or provide a written explanation to the person requesting the public record stating when the record will be produced, including an expected date of completion, or stating a reason that the record cannot be produced. All public record requests under MPRA/FOIA shall be answered no later than fourteen (14) working days after the initial receipt of the request, unless there is a mutual agreement between the parties.

~~If a determination is made that the records requested are exempt under the law, a statement of the specific reason(s) for denial shall be furnished to the requesting party within seven (7) days of initial receipt of the request. All requests, whether granted or denied, shall be kept on file for a period of not less than three (3) years from the date such requests are made.~~

Any person wishing to request access to public records of MDHS, or seeking assistance in making such a request should contact MDHS's Director of Communications. All requests to examine, copy, or obtain public records from MDHS must be in writing** and delivered to MDHS via mail, e-mail or in person. The request should provide as much detail as possible about the records being requested, include the preferred format (paper copy, flash drive, electronic or inspection) and must include the name, address, and contact information of the requestor including email address and phone number.

Requests should be sent to:

Mississippi Department of Human Services
Office of Communications
RE: PUBLIC RECORDS REQUEST
750 North State Street
Jackson, MS 39202

Via email: publicrecords@mdhs.ms.gov
Via facsimile: 601.359.4477

This information is also available on the DHS web site at <http://www.mdhs.state.ms.us/>

The Director of Communications will oversee compliance with the Act whereas another MDHS staff member may process the request. Therefore, these rules will refer to the Director of Communications “or designee.” The Director of Communications or designee and MDHS will provide the “fullest assistance” to requestor; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of MDHS.

Source: Miss. Code Ann. §25-61-5 (2016)

~~Rule 1.3: **Rule 1.3** Assessment of Fees. **Availability of Public Records**~~ The Division of Human Resources shall inform the requestor of the estimated amount of the fees to be charged in order to defray the actual costs of searching, reviewing, copying, and mailing the records. Fees shall be collected prior to providing the requested information to the requestor.

The fees charged in relation to MPRA/FOIA requests shall be in accordance with the following schedule:

- A. ~~Photocopies, per copy (one side only).....\$.25~~
- B. ~~Staff time expended in photocopying,
per quarter hour increment.....\$3.00
(cost per employee*)~~
- C. ~~Staff time expended in manual records search,
per quarter hour increment.....\$3.00
(cost per employee*)~~
- D. ~~Automated records search by computer,
per quarter hour
increment.....\$240.00
minimum charge of \$80.00 (5 minutes or less)~~

~~*For example, if two staff persons must work in unison to search/copy/collate the material, the charge for both will be \$6.00 per quarter hour.~~

The preceding schedule of fees will apply even if the search is unproductive. Fees charged will not exceed the actual cost of the search and reproduction, therefore, any overpayment of estimated charges will be refunded.

Source: *Miss. Code Ann. §25-61-7 (2011)*

- (a) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours at MDHS, Monday through Friday, 8 a.m. to 5 p.m., excluding legal holidays. Records must be inspected at the office of MDHS. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of MDHS.
- (b) **Organization of records.** MDHS will maintain its records in a reasonably organized manner, subject to the rules of record retention. MDHS will take reasonable actions to protect records from damage and disorganization. A requestor shall not take MDHS records from MDHS offices. A variety of records is available on the MDHS web site at <http://www.mdhs.state.ms.us/>. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.
- (c) **Making a request for public records.** Any person wishing to inspect or copy public records of MDHS should make the request in writing on the MDHS request form, or by letter, fax, or e-mail addressed to the Director of Communications and including the following information:
 - 1. Name of requestor;
 - 2. Address of requestor;
 - 3. Other contact information, including telephone number and any e-mail address;
 - 4. Identification of the public records adequate for the Director of Communications or designee to locate the records; and
 - 5. The date and time of the request.

If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to Rule 1.8 Costs of Providing Public Records of this policy, standard 8 ½” x 11” photocopies will be provided at \$.25 a page. (See 1.8 Costs of Providing Records for additional costs and charges).

A form is available for use by requestors at the office of the Director of Communications and online at <http://www.mdhs.state.ms.us/>.

The Director of Communications or designee may accept requests for public records that contain the above information by telephone or in person. If the Director of Communications or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

Source: *Miss Code Ann. 25-61-5 (2016)*

~~Rule 1.4: Rule 1.4 Payment of Fees. Processing of public records requests - General~~ Fees shall be paid by one of the following methods:

- ~~A. Cashier's check~~
- ~~B. Money order~~
- ~~C. Personal check (only if drawn on a Mississippi bank and on the account of a resident of Mississippi)~~

~~Cashier's checks and/or money orders shall be made payable to "Treasurer, State of Mississippi." If the requestor presents payment at the MDHS State Office Building in Jackson, Mississippi, the payment will be accepted by the Division of Human Resources. Otherwise, payments shall be presented by mail to the Division of Human Resources. Receipts for payments received via mail will be provided to the requesting party by mail within five (5) working days of receipt of payment. The payment and a copy of the receipt will be forwarded to the Division of Budgets and Accounting for deposit to the proper fund.~~

Source: ~~Miss. Code Ann. §25-61-7 (2011)~~

- (a) **Providing access.** MDHS 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. Section 25-61-1 and 25-61-5. The Director of Communications or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.
- (b) **Acknowledging receipt of request.** Within seven (7) business days of receipt of the request, the Director of Communications 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 the records will be available; or
 - 4. If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The Director of Communications or designee may revise the estimate of when records will be available; or
 - 5. Deny the request.
- (c) **Consequences of failure to respond.** If MDHS does not respond in writing within seven (7) business days of receipt of the request for disclosure, the requestor should consider contacting the Director of Communications to determine the reason for the failure to respond.

- (d) **Timetable for Processing.** All requests to examine, copy or obtain public records will be approved or denied within fourteen (14) working days after the request is received. Some documents are exempt from disclosure (See Rule 1.6 Exemptions) including records furnished to MDHS by third parties referred to below (See Rule 1.7 Third Party Information). Third parties have thirty (30) days from the date of notification to obtain a court order protecting information deemed confidential.

No request will be processed until after payment is received, therefore, depending on when payment is made/or the scope of the request, it may take longer than fourteen (14) working days before the documents are ready for inspection or to be released.

- (e) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the Director of Communications will, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

- (f) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If MDHS believes that a record is exempt from disclosure and should be withheld, the Director of Communications or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Director of Communications or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

- (g) **Inspection of records.** MDHS 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, if any, he or she wishes MDHS to copy.

The requestor must claim or review the assembled records within thirty (30) days of MDHS's notification to him or her that the records are available for inspection or copying. MDHS will notify the requestor in writing of this requirement and inform the requestor that he or she should contact MDHS 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-day period or make other arrangements, MDHS may close the request and refile the assembled records.

- (h) **Providing copies of records.** After inspection is complete, the Director of Communications or designee shall make the requested copies or arrange for copying.
- (i) **Providing records in installments.** When the request is for a large number of records, the Director of Communications or 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 Director of Communications or designee may stop searching for the remaining records and close the request.

- (j) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the Director of Communications or designee will indicate that MDHS has completed a diligent search for the requested records and made any located nonexempt records available for inspection.
- (k) **Closing withdrawn or abandoned request.** 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 Director of Communications will close the request and indicate to the requestor that MDHS has closed the request.
- (l) **Later discovered documents.** If, after MDHS has informed the requestor that it has provided all available records, MDHS 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 & §25-61-5 (2016)

~~Rule 1.5:~~ **Rule 1.5-Waiver of Fees. Processing of public records requests – Electronic Records**

~~A waiver of fees may be requested by the person making the request for search, inspection, or reproduction of documents. The Executive Director has the authority to waive charges when deemed appropriate in his/her judgment. However, all requestors must agree to pay the reasonable cost of labor and the fees for reproduction of documents when making their request. The requestor may specify a specific dollar amount that should not be exceeded in the event a waiver of fees is not granted.~~

Source: Miss. Code Ann. §25-61-7 (2011)

- (a) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.
- (b) **Providing electronic records.** When a requestor requests records in an electronic format, the Director of Communications will provide the nonexempt 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 public body keeps the record. Costs for providing electronic records are governed by Rule 1.8.
- (c) **Customized access to data bases.** With the consent of the requestor, MDHS may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. MDHS may charge the actual cost for such customized access.

Source: Miss Code Ann. §25-61-3 & §25-61-5 (2016)

~~Rule 1.6: Rule 1.6 Prescribed Form. Exemptions~~ Form DHS-ADM-1000, Request to Inspect, Copy or Reproduce Public Records, is the prescribed form for making requests in conjunction with this policy.

Source: *Miss. Code Ann. §25-61-5 (2011)*

The Public Records Act, as well as other statutes and court decisions, provide that a number of types of records 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, outside the Publics Records Act, that restrict the availability of some records held by MDHS for inspection and copying:

- (a) Academic records exempt from public access, see § 37-11-51.
- (b) Appraisal records exempt from access, see § 31-1-27.
- (c) Archaeological records exempt from public access, see § 39-7-41.
- (d) Attorney work product, examination, exemption, see § 25-1-102.
- (e) Birth Defects Registry, see § 41-21-205.
- (f) Bureau of vital statistics, access to records, see § 41-57-2.
- (g) Charitable organizations, registration information, exemption from public access, see § 79-11-527.
- (h) Concealed pistols or revolvers, licenses to carry, records, exemption, see § 45-9-101.
- (i) Confidentiality, ambulatory surgical facilities, see § 41-75-19.
- (j) Defendants likely to flee or physically harm themselves or others, see § 41-32-7.
- (k) Environmental self-evaluation reports, public records act, exemption, see § 49-2-71.
- (l) Hospital records, Mississippi Public Records Act exemption, see § 41-9-68.
- (m) Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77.
- (n) Insurance and insurance companies, risk based capital level requirements, reports, see § 83-5-415.
- (o) Judicial records, public access, exemption, see § 9-1-38.
- (p) Jury records exempt from public records provisions, see § 13-5-97.
- (q) Licensure application and examination records, exemption from Public Records Act, see § 73-52-1.
- (r) Medical examiner, records and reports, see § 41-61-63.
- (s) Personnel files exempt from examination, see § 25-1-100.
- (t) Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.
- (u) Workers' compensation, access to records, see § 71-3-66.
- (v) Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.

Source: *Miss Code Ann. §25-61-11 (2016)*

Rule 1.7 Third Party Information

When any person files or submits documents with MDHS 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.

Any document filed with MDHS 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, MDHS 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 Section 25-61-9, Miss. Code Ann. Of 1972.

Any person filing documents with MDHS shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. MDHS shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity. In no event will MDHS 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.

Failure by the third party to clearly identify trade secrets or confidential commercial or financial information on a different color paper than non-confidential pages will result in that information being released subject to a public records request.

Source: Miss Code Ann. §25-61-9 (2016)

Rule 1.8 Costs of providing public records

- (a) **Costs for paper copies.** Section 25-61-7(1), Miss. Code of 1972, 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 8 ½” x 11” black and white photocopies for \$.25 cents per page and color copies for \$.50 cents per page. Copy charges for some specific types of records are set by statute and may exceed the amount stated above. Examples of specific MDHS copy charges include, but are not limited to, the following:

8 ½" x 11" – \$.25 per page

8 ½" x 14" – \$.35 per page

11" x 17" – \$.75 per page

\$15 per hour.....for basic copies or clerical assistance

\$15-\$75 per hour....to evaluate, research, redact, reproduce based on the pay scale of the lowest level employee competent to respond to the request

\$40 per hour.....for technical or professional assistance

\$50 per hour.....for automated records search

Actual costs.....for postage, UPS, Federal Express, temporary agency personnel, and reproduction at an outside print facility

MDHS charges \$.25 per page for a standard black and white photocopy of a record selected by a requestor. A statement of the factors and the manner used to determine this charge is available from the Director of Communications.

Before beginning to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The Director of Communication or 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. MDHS will not charge sales tax when it makes copies of public records.

MDHS will notify the requestor of the costs to obtain the information prior to sending the request. The requestor will be required to reimburse MDHS for reasonable costs sufficient to cover the actual expenses incurred by MDHS to furnish the requested information. Payment must be made in advance of the receipt of documents. If the actual cost is higher than the estimate, the requestor will be required to pay the difference before receiving the information. If the actual cost is lower than the estimate, MDHS will refund the difference.

Please note that the following types of public records requests usually require additional research and staff time and can have significant costs associated with filling the request: (1) Requests for very large volumes of materials; (2) Requests that are too broad; (3) Requests that are unspecific in scope; (4) Requests for information that have already been archived; and (5) Requests for documents that are unusual in size.

(b) **Costs for electronic records.** The costs of electronic copies of records shall be determined on a case by case basis for information on a CD-ROM. The cost of scanning existing MDHS paper or other non-electronic records is \$.25 per page. There will be no charge for e-mailing electronic records to a requestor, unless another costs applies. Such costs 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 and to hand deliver the information requested. If necessary, MDHS may

engage third parties to perform these tasks. The requestor is required to pay the actual costs of these engagements in advance.

- (c) **Costs of mailing.** MDHS may also charge actual costs of mailing, including the cost of the shipping container.
- (d) **Payment.** Payment may be made by certified check, money order, or corporate check made payable to MDHS for the amount specified. **No cash, personal checks, or credit/debit cards can be accepted.**
- (e) **Charges for searching, reviewing and redacting.** The actual cost for 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.

MDHS may require payment in advance for all costs before providing copies or access to records.

Source: Miss Code Ann. § 25-61-7 (2016)

Rule 1.9 Review of denials of public records

- (a) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the Director of Communications for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the Director of Communications or designee denying the request.
- (b) **Consideration of petition for review.** The Director of Communications must promptly provide the petition and any relevant information to the Executive Director of MDHS or his or designee for immediate consideration of the petition to either affirm or reverse the denial within two (2) business days following MDHS's receipt of the petition, or within such other time as MDHS and the requestor mutually agree.
- (c) **Opinion by the Ethics Commission.** Pursuant to Section 25-61-13, if MDHS denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.
- (d) **Judicial review.** Any person whose request for public records was denied may institute a suit in the Chancery Court of Hinds County, seeking to reverse the denial, as set forth in Section 25-61-13.

Source: Miss Code Ann. §25-61-13 (2016)

Rule 1.10 Public Information via the Internet

Frequently requested information, including many standard records are available free of charge on the MDHS website at <http://www.mdhs.state.ms.us/>. In addition, information on the state budget, expenditures, travel, contracts, leases, workforce and grants is available free of charge at www.transparency.ms.gov.

Source: Miss Code Ann. §25-61-5 (2016)

Rule 1.11 Prescribed Form

Form MDHS ADM-1000, Public Records Request Form, is the prescribed form for making requests in conjunction with this policy.



MISSISSIPPI DEPARTMENT OF HUMAN SERVICES
PUBLIC RECORDS REQUEST FORM

Mail or Hand Deliver to: 750 North State Street, Jackson, MS 39202
Email to: publicrecords@mdhs.ms.gov or Fax to 601.359.4477

Requester Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

Email: _____

Signature: _____ Date: _____

I have read and understand the Administrative Policy No. 8, 'MDHS Public Records Act Policy'

Manner of Compliance: Personally Inspect Request to be Copied

Manner of Deliver Desired: Mail Email Fax

Please provide clear, concise description with dates, if applicable.