Office of Open Records Counsel

TENNESSEE CODE ANNOTATED

*** CURRENT THROUGH THE 2013 SESSION ***

TITLE 8. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 4. COMPTROLLER OF THE TREASURY
PART 6. OFFICE OF OPEN RECORDS COUNSEL

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8-4-601. Creation.

(a) There is created the office of open records counsel to answer questions and provide information to public officials and the public regarding public records. The role of the office shall also include collecting data on open meetings law inquiries and problems and providing educational outreach on the open records laws compiled in title 10, chapter 7, and the open meetings laws compiled in chapter 44 of this title.

(b) The office of open records counsel shall answer questions and issue informal advisory opinions as expeditiously as possible to any person, including local government officials, members of the public and the media. State officials shall continue to consult with the office of the attorney general and reporter for such opinions. Any opinion issued by the office of open records counsel shall be posted on the office's web site.

(c) The office of open records counsel is authorized to informally mediate and assist with the resolution of issues concerning the open records laws compiled in title 10, chapter 7.

HISTORY: Acts 2008, ch. 1179, § 6.

8-4-602. Advisory committee – Membership.

(a) There is created an advisory committee on open government to provide guidance and advice for the office of open records counsel.

(b) (1) The advisory committee shall consist of fourteen (14) members to be appointed for a term of four (4) years; provided, that the five (5) members listed in subdivisions (b)(1)(A)-(E) shall be appointed for an initial term of four (4) years and the five (5) members listed in subdivisions (b)(1)(F)-(J) shall be appointed for an initial term of two (2) years. The members

listed in subdivisions (b)(1)(K), (L), (M) and (N) shall be appointed for an initial term of four (4) years. The advisory committee shall be made up of one (1) member from each of the following groups who will be appointed by the comptroller of the treasury from a list of three (3) nominees submitted from each group:

(A) One (1) member from the Tennessee Coalition for Open Government;

(B) One (1) member from the Tennessee Press Association;

(C) One (1) member from the Tennessee Municipal League;

(D) One (1) member from either the Tennessee County Services Association or the County Officials Association of Tennessee;

(E) One (1) member from the Tennessee School Boards Association;

(F) One (1) member from Common Cause;

(G) One (1) member from the League of Women Voters;

(H) One (1) member from public hospitals submitted by the Tennessee Hospital Association;

(I) One (1) member from the Tennessee Association of Broadcasters;

(J) One (1) member representing the board of regents or the University of Tennessee;

(K) One (1) member from the Tennessee Association of Chiefs of Police;

(L) One (1) member from the Tennessee Sheriffs' Association;

(M) One (1) member from the Society of Professional Journalists; and

(N) One (1) member from the American Association of Retired People.

(2) The advisory committee shall also consist of the chair of the state and local government committee of the senate and the state government committee of the house of representatives and the attorney general and reporter or the attorney general and reporter's designee.

(c) The nonlegislative members shall not receive compensation for serving on the committee but shall be reimbursed for attendance at meetings in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

HISTORY: Acts 2008, ch. 1179, § 6; 2010, ch. 1148, §§ 1-3; 2013, ch. 236, § 65.

8-4-603. Open meetings laws – Review of proposed legislation – Report.

(a) The advisory committee, with the guidance and assistance of the office of open records counsel, may review and provide written comments on any proposed legislation regarding the open meetings laws compiled in chapter 44 of this title and the open records laws compiled in title 10, chapter 7.

(b) The office of open records counsel and the advisory committee shall provide a report to the general assembly and to the governor by March 1 of each year.

HISTORY: Acts 2008, ch. 1179, § 6.

8-4-604. Office of open records counsel – Duties – Schedule of reasonable charges – Policies and guidelines.

(a) The office of open records counsel shall establish:

(1) (A) A schedule of reasonable charges that a records custodian may use as a guideline to charge a citizen requesting copies of public records pursuant to title 10, chapter 7, part 5. In establishing the schedule, the office of open records counsel shall consider:

(i) Such factors as the size, by population, of the county or municipality, the complexity of the request, the number of man hours involved in retrieving the documents, redacting confidential information from the documents and any other costs involved in preparing the documents for duplication, the costs of duplication, the costs of mailing the documents if the requestor is not returning to retrieve the requested documents, and any other costs that the office of open records counsel deems appropriate to include in the charge; and

(ii) The principles presented by the study committee created by Acts 2006, ch. 887:

(a) That state policies and guidelines shall reflect the policy that providing information to the public is an essential function of a representative government and an integral part of the routine duties and responsibilities of public officers and employees;

(b) That excessive fees and other rules shall not be used to hinder access to nonexempt public information;

(c) That, in accordance with § 10-7-503(a)(7)(A), no charge shall be assessed to view a public record unless otherwise required by law;

(d) That the requestor be given the option of receiving information in any format in which it is maintained by the agency, including electronic format consistent with title 10, chapter 7, part 1; and

(e) That when large-volume requests are involved, information shall be provided in the most efficient and cost-effective manner, including but not limited to permitting the requestor to provide copying equipment or an electronic scanner;

(B) The schedule established pursuant to subdivision (a)(1)(A) shall be revised at least annually;

(2) A separate policy related to reasonable charges that a records custodian may charge for frequent and multiple requests for public records; and

(3) A safe harbor policy for a records custodian who adheres to the policies and guidelines established by the office of open records counsel.

(b) The office of open records counsel shall make the policies and guidelines available on the Internet.

(c) The policies and guidelines shall not be deemed to be rules under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

HISTORY: Acts 2008, ch. 1179, § 6.