

OFFICE OF EDUCATIONAL ACCOUNTABILITY
Summary of State Board of Education Agenda Items
November 14-15, 2013

OFFICE OF REPORTING

18. Approval to begin the Administrative Procedures Act process: To establish the State Board Policy 6101 – Public Records Policy

Executive Summary

The Mississippi Code of 1972 Annotated Section 26-61-2 outlines the legal requirements for access to public records. Establishing this policy will outline the process for requesting public information from the Mississippi Department of Education.

Recommendation: Approval

Back-up material attached

6101 PUBLIC RECORDS POLICY

The public records policy of the Mississippi Department of Education (MDE) has been adopted in accordance with the Mississippi Public Records Act of 1983, Section 25-61-1, et seq. Mississippi Code of 1972. All records and portions of records not exempt from disclosure will be made available in accordance with the procedures outlined below.

PUBLIC RECORD:

In accordance with Miss. Code Ann. Section 25-61-3(b), public records are defined as "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."

REQUEST:

Requests for information may be made pursuant to and in accordance with the Mississippi Public Records Act and the Board policy by submitting a written request specifying the record(s) sought, and must include the name, address, and email address of the individual and/or organization requesting the record. A form has been created to assist requesters in meeting these submission requirements and is available online at mde.k12.ms.us.

Requests should be submitted to:

Office of Reporting
Mississippi Department of Education
P. O. Box 771
Jackson, MS 39205-0771
ATTN: PUBLIC RECORDS REQUEST
reporting@mde.k12.ms.us

RESPONSE:

The MDE shall respond in writing within seven (7) working days from the date of the receipt of the request. If the requested record is unable to be produced by the seventh working day after the request is made, the MDE will provide a written explanation to the requester stating that the record requested will be produced and specifying with particularity why the records cannot be produced within the seven-day period. Unless there is mutual agreement of the parties, in no event shall the date for the requested records be any later than fourteen (14) working days from the receipt by of the original request.

FEES:

By statute, charges are made on a cost-recovery basis. Any person who desires copies of a public record as defined herein but does not officially represent a public body shall be charged the actual cost per page of mechanically reproduced copy. Copies of pages printed on both sides (front and back) shall be considered as two pages. This fee is for the cost of searching, reviewing, and duplicating the public record.

However, if the searching, reviewing, or duplicating of documents or the separating of non-exempt material from documents, etc., containing exempt material requires more than one-quarter hour of work, then the hourly rate can be charged in addition to a mechanical reproduction charge of twenty-five cents (\$.25) per page for any copies desired. The charge for the hours shall be based upon the hourly salary of the lowest paid employee of the MDE qualified and available to do the job.

In the event the public record is available in computer files and can be obtained through computer use, the requesting party must pay the charge for computer use, including programming time and actual computer time as well as any other costs incurred. This charge will be determined by the MDE.

Mailing costs calculated at the applicable United State Postal Service rates shall be charged where appropriate. The cost of mailing a notice to third parties via certified mail, return receipt requested, shall be charged to persons requesting the public records. Actual costs for shipment by other than United States Postal Service shall be charged to the person requesting the special shipment.

When fees are appropriate as specified, the fees must be paid prior to the MDE's compliance with the request. Cash, money orders, cashier's checks, personal and company checks will be accepted in payment for fees, and must be made payable to the Mississippi Department of Education. Payment by personal or company check will be accepted subject to clearance within fourteen (14) working days.

THIRD PARTY NOTICE:

Records furnished to the MDE by a third party which contain trade secrets or confidential commercial or financial information shall not be released until notice to the third party has been given in accordance with the Mississippi Public Records Act. Such records shall be released in fourteen (14) days from the third party's receipt of notice unless the third party obtains a court order protecting the records as confidential or notifies MDE in writing of its intent to seek such order.

DENIALS:

Denials shall contain the specific reasons for denial. Copies of all denials shall be maintained on file by the Office of Reporting for not less than three years from the date denial is made.

Source: MS Code 25-61-1, et seq.