

OFFICE OF EDUCATIONAL ACCOUNTABILITY
Summary of State Board of Education Agenda Items
January 16-17, 2014

OFFICE OF REPORTING

- D. Approval to begin the Administrative Procedures Act process: To delete State Board Policy 6100 – Public Records Requests and reestablish it as Request for Information
(Has cleared Administrative Procedures Act process with no public comment)

Executive Summary

Deleting and reestablishing this policy will clarify the types of requests stakeholders may submit to the Mississippi Department of Education, identify the procedures for the release of records, and align policies to applicable state and federal statutes regarding the release of information.

Recommendation: Approval

Back-up material attached

DESCRIPTOR TERM: Public Records Act
CODE: 6100
ADOPTION DATE: May 1, 2000
REVISION: September 1, 2004

MEDIA POLICIES

The Department of Education has fostered a close working relationship with the news media in order to promote its programs, projects and operations. To assist in the effort, the Office of Communications has been designated as the coordinating office for all activities regarding news media. All news releases, newsletters, public service announcements, publicity, promotional materials, advertising (with the exception of advertising for purchasing), graphics, photography, etc. will be originated, produced, disseminated and/or approved by the Office of Communications.

The Office of Communications should be informed of any activity of the Department that may be newsworthy. This includes, but is not limited to, new programs, changes in existing programs, conferences, training sessions, and workshops. This information should be provided to the Office of Communications at least two weeks in advance of the activity.

If any office invites an elected official to speak at a conference, workshop or training, the invitation should be approved by the Office of Legislative Services before the invitation is extended.

All employees have the right as citizens to make statements to the press or news media. However, on those occasions when the employee is officially representing the Department, he or she may not disclose to the press or news media any restricted or confidential information unauthorized by the Office of Communications.

Employees contacted by the media should respond, unless otherwise directed by the office director, within the realm and scope of the individual's responsibility and knowledge. The employee must have been delegated the authority to speak for his or her program by the office director prior to responding to the media. If the question does not pertain to an employee's area or is regarding a policy matter, the reporter should be referred to the Office of Communications. Employees should answer questions factually and promptly, so long as the questions deal with information, not policy. The employee or office should not speak for the Board or the State Superintendent.

Following any contact with the news media, employees should immediately forward the following information to the Office of Communications: the reporter's name, the news organization, the nature of the request, information supplied, and any follow-up that should occur.

PUBLIC RECORDS POLICY

The public records policy of the Department of Education 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.

DEFINITIONS

The following terms have been defined for purposes of this policy:

Public Body: A public body is defined as "any department, office, division, council, commission, committee, subcommittee, board, agency and any other entity of the state or political subdivision thereof, and any municipal corporation and any other entity created by the Constitution or by law, executive order, ordinance or resolution. Within the meaning of this act, the term 'entity' shall not be construed to include individuals employed by a public body or any appointed or elected public official."

Public Records: 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."

Exempt Records: Those records exempt from disclosure under the Public Records Act.

Non-Exempt Records: Those records which are not exempt from disclosure under the Public Records Act.

Working Day: A working day is any day other than a weekend, state holiday, or a day which by executive order an agency is authorized to be closed or the employees of an agency are authorized to be absent.

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 Department 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, then the requesting party must pay the charge for the computer use, including programming time and actual computer time as well as any other costs incurred. This charge will be determined by the

Department.

Mailing costs calculated at the applicable United States 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.

PROCEDURES FOR RECORD REQUESTS

All requests for access to or copies of a public record shall be in writing and shall specify what record is being sought as well as the name and address of the individual and/or organization requesting the record. Requests shall be addressed to the State Superintendent of Education. Request forms are available in the State Superintendent of Education's office.

The Department shall respond in writing within fourteen (14) work days from the date of the request. Denials shall contain the specific reasons for denial. Copies of all denials shall be maintained on file by the Department for not less than three years from the date denial is made.

Access to non-exempt records will be allowed during regular business hours.

If any public record which is held to be exempt from disclosure contains material which is not exempt, the Department shall separate the exempt material and make the non-exempt material available for examination and/or copying.

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

Records furnished to the Department by third parties, which are not public bodies as defined in the Public Records Act, will not be released until notice to the third parties has been given. The records shall be released in fourteen (14) days unless the third party obtains a court order protecting the records as confidential.

The State Superintendent of Education or his designee has the authority to specify the mode, manner, time and place of access.

EXEMPT RECORDS

Any record expressly exempt from the Records Act or any record specifically declared to be confidential or privileged by any Mississippi statute or constitutional provision shall not be submitted to mandatory inspection and copying. Those records which are specifically exempt by statute and which fall within the jurisdiction of the Department of Education include the following:

- Personnel records and applications for employment, except those which may be released to the person who made the application or with the prior written consent of the person who made the application. This shall not be construed to prohibit the disclosure of the following information about employees: name, date of employment, length of employment, qualifications, and salary;
- Test questions and answers which are to be used in employment examinations;
- Letters of recommendation respecting any application for employment;
- Letters of recommendation regarding admission to any educational agency or institution;
- Records which represent and constitute the work product of any attorney and which are related to litigation made by or against the MS Board of Education and/or the Department or in anticipation of prospective litigation, including all communications between such attorney made in the course of an attorney/client relationship; and,
- Appraisal information which concerns the sale or purchase of real or personal property for public purposes prior to public announcement of the purchase or sale, where the release of such records would have a detrimental effect on such sale or purchase.

For the purpose of providing advance notice to submitters of trade secret or confidential commercial or financial information, twenty-five days from the submitter's receipt of written notice shall be deemed a reasonable time for the disclosure of the requested records in the absence of a court order to the contrary.

103 Where and how the public may obtain information. The text of all Board Policies, as well as information regarding pending rules and meetings, may be obtained by visiting the Department's website at www.mde.k12.ms.us. The following is a list of categories of current policies adopted by the Board. Requests for Declaratory Opinions may be made pursuant to the following rules. Otherwise, requests for information may be made pursuant to and in accordance with the Mississippi Open Records Act and the Board policy by submitting written requests using the Public Records Request Form to:

State Superintendent
Mississippi Department of Education
P. O. Box 774
Jackson, MS 39205-0774
ATTN: PUBLIC RECORDS REQUEST

Section 20.4

MISSISSIPPI DEPARTMENT OF EDUCATION
P.O. BOX 774
JACKSON, MS 39205-0774

Request for Access to Records

Date of Request: _____

Name of Person Making Request _____

Phone Number: _____

I hereby request the following information maintained by the MS Department of Education:

Requests shall be specific enough to allow Department employees to identify and retrieve records requested.

My request is to:

- _____ 1. Review the records listed above.
- _____ 2. Receive copy(e) of records listed above.
- _____ 3. Mail copy(e) of records to address shown above.

I understand that appropriate charges for searching, copying and/or mailing shall be paid in full prior to granting this request.

Signature of person making request:

Title Date

6100 Request for Information