

**OFFICE OF EDUCATIONAL ACCOUNTABILITY**  
**Summary of State Board of Education Agenda Items**  
**Consent Agenda**  
**March 17, 2022**

**OFFICE OF PUBLIC REPORTING**

- H.07. Approval to begin the Administrative Procedures Act process: To repeal Miss. Admin. Code 7-3: 73 and 73.1, State Board Policy Chapter 73 – School Records, Rule 73.1 – School Records

Background Information: Begin the Administrative Procedures Act process: To repeal Miss. Admin. Code 7-3: 73 and 73.1, State Board Policy Chapter 73 – School Records, Rule 73.1 – School Records policy in accordance with Miss. Code Ann. § 25-43-3.114 which requires an agency to review all of its rules at least every five years to determine whether any rule should be repealed, amended, or a new rule adopted.

Recommendation: Approval

Back-up material attached

### **Part 3 Chapter 73: School Records**

*Rule 73.1 School Records.* The following procedures are adopted as provided under the Mississippi Public Records Act of 1983, Chapter 424, Laws of 1983 (hereinafter referred to as the Public Records Act.

#### **1. DEFINITIONS**

- a. Public body: A public body is defined as "any department, bureau, division, council, commission, committee, subcommittee, board, agency and any other entity of the state or a 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."
- b. 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."
- c. Exempt records: Those records exempt from disclosure under the Public Records Act.
- d. Nonexempt records: Those records which are not exempt from disclosure under the Public Records Act.
- e. 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 absent.

#### **2. FEES**

- a. 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 nonexempt material from documents, etc., containing exempt material requires more than one-quarter hour of work, then the requesting party shall be charged for the work time above one-quarter hour in addition to the actual

~~cost per page of mechanical reproduction for any copies desired. The charge for the hours shall be based upon the hourly salary of the lowest paid qualified employee of the State Department of Education (hereinafter referred to as the Department) 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.~~

- ~~b. 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.~~

### ~~3. PROCEDURES~~

- ~~a. 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.~~
- ~~b. The Department shall respond in writing within fourteen (14) working days from the date of the request. Denials shall contain the specific reasons for the 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.~~
- ~~c. Access to nonexempt records will be allowed during regular business hours.~~
- ~~d. 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 nonexempt material available for examination and/or copying.~~
- ~~e. 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, 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 working (14) days.~~
- ~~f. 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 days unless the third party obtains a court order protecting the records as confidential.~~
- ~~g. The State Superintendent of Education or his designee has the authority to specify the mode, manner, time and place of access.~~

Source: ~~Miss. Code Ann. § 37-1-3 (Revised 7/1989)~~