

CHANCELLOR'S PROCEDURE for Policy 222.01 Open Records Requests

Effective October 1, 2024, every ACCS entity shall task at least one employee with responding to public records requests and designate them as the ACCS entity's public officer for purposes of complying with Alabama Code 36-12-40 through 46. This public officer may be designated as a public records clerk or assistant, public records officer, public records specialist, or public records coordinator, depending on other tasks assigned and agreed by the ACCS System Office, or they may continue with their current title as long as their job description is updated to reflect this public officer task.

Effective October 1, 2024, every ACCS entity shall adopt this written procedure (or a substantially similar procedure in accordance with Alabama Code 36-12-40 through 46) and post the written procedure on the ACCS entity's website, along with the Open Records Form (which template shall be provided by the Chancellor's Office).

COLLEGE PROCEDURE FOR OPEN RECORD REQUESTS

This procedure for Open Record Requests shall be posted on our College's website. The Open Records Request Form, with instructions, shall also be posted on our website.

We have no obligation under the law to respond to a public records request that is not made in accordance with these written procedures and instructions.

GENERAL INSTRUCTIONS: Any **Alabama resident** desiring to inspect or take a copy of a public record shall submit a public records request on the Open Records Request Form. Once complete, this Open Records Request Form must be submitted to the public officer, either by:

- hand-delivery addressed to the public officer above at the address provided; or
- mailing addressed to the public officer above at the address provided; or
- emailing to the public officer at the address provided.

Receipt of a hand-delivered, mailed, or emailed public records request occurs when the request is actually received by the public officer. A read email receipt, certified mail receipt, or similar signed postage receipt shall be prima facie evidence of receipt by the public officer.

GENERAL RULE: Every **Alabama resident** has a right to inspect and take a copy of any public record of this state, unless exempted from disclosure under law or unless he/she fails to follow these procedures/instructions.

EXEMPT FROM DISCLOSURE: Public records and document content that are exempt from disclosure under the law, include but are not limited to:

- Information received by a public officer or public official in confidence;
- Information which contains sensitive personnel records;

- Pending criminal investigations;
- Information received in anticipation of litigation or likely litigation;
- Records which, if released, would be detrimental to the best interests of the public;
- Other statutorily exempted records (FERPA is example).
- Records and information protected under the attorney-client privilege; and
- Records subject to legal discovery methods provided under applicable rules of court procedure, from any party to a pending or threatened action, suit, or proceeding (see Alabama Code 36-12-46);
- Registration and circulation records from any ACCS college and information concerning the use of any ACCS college library. But, any parent of a minor child (student below the age of 19) shall have the right to inspect (but not take a copy) the registration and circulation records of any college or college library that pertain to his or her child.
- Records concerning security plans, procedures, assessments, measures, or systems, and any other records relating to or having an impact upon the security or safety of persons, structures, facilities, or other infrastructures, including without limitation information concerning critical infrastructure defined at 42 U.S.C. § 5195c (e) and critical energy infrastructure information, defined at 18 C.F.R. § 3S8.113(c), the public disclosure of which could reasonably be expected to be detrimental to the public safety or welfare.

DEFINITIONS:

ALABAMA RESIDENT is defined as:

An individual who is permanently domiciled in Alabama with an expectation to remain in Alabama as demonstrated by reasonable proof of residency such as but not limited to an Alabama driver license or voter registration.

STANDARD REQUEST is defined as:

A public records request that seeks one or more specifically and discretely identified public records that the public officer determines would take less than eight hours of staff time to process considering the time needed to identify and retrieve any responsive records and to redact or take other measures to withhold legally protected information. A standard request should require no or minimal clarification by the requester.

SUBSTANTIVE RESPONSE is defined as:

A response to a public records request that sets forth the public officer's ultimate position on the substance of the request. The term includes, but is not limited to, the following, in whole or in part:

- a. A statement that the public records are provided as attached or enclosed.
- b. A statement that access to the requested public records will be provided at a set time, place, and location during regular business hours or at a time, place, during regular business hours or at a time, place, and location mutually agreeable to the public officer and the requester.

- c. A statement that the public officer is prepared to provide the requested public records to the requester upon payment of a reasonable, specified fee.
- d. A statement that denies the request with reasons stated therefor.
- e. A statement that denies the request on the grounds that the requested public record does not exist within the government agency.
- f. A statement that denies the request for failure to substantially complete a standard request form.
- g. A statement that denies the request for failure to substantially comply with the written procedures established by the public officer for such request.
- h. A statement that denies the request because the records sought are not public or exempted or not subject to disclosure.

TIME-INTENSIVE REQUEST is defined as:

A public records request that the public officer determines would take more than eight hours of staff time to process considering the time needed to identify and retrieve any responsive records and any time needed to redact or take other measures to withhold legally protected information.

RESPONDING TO STANDARD REQUEST

For a **standard request**, the public officer, or his/her designee, shall:

- (1) acknowledge a proper request by email or address to the requestor within 10 calendar days of receiving the request and may require the requester to pay a reasonable fee set by the public officer before the requester may receive any public records, if any. If the public officer elects to charge a fee, the public officer shall notify the requester of the estimated fee and withhold any public records until receipt of payment; and then
- (2) provide a **substantive response** either fulfilling or denying a proper request within 15 business days of acknowledging receipt. The public officer may extend this period in 15-business-day increments upon written notice to the requester, but the public officer should process a standard request as expeditiously as possible considering the requester's time constraints, the public officer's workload, and the nature of the request.

There shall be a rebuttable presumption that a proper **standard request** has been denied by the public officer if (a) a substantive response is not provided to the standard request within the earlier of 30 business days or 60 calendar days following acknowledgment of receipt by the public officer; or (b) the public records are not produced within the earlier of 30 business days or 60 calendar days following the payment of the estimated fees to the public officer.

There shall be no presumption that a proper **standard request** has been denied if (a) the public officer has responded in part; or (b) the public officer and requester have reached an agreement regarding the time or substance, or both, of the response; or (c) good faith negotiations are ongoing between the public officer and the requester; or (d) the public officer has reasonably communicated the status of the request to the requester.

RESPONDING TO TIME-INTENSIVE REQUEST

For **time-intensive requests**:

(1) At or around the time of designating the request as time-intensive, the public officer shall make a record in a log maintained for keeping track of currently pending **time-intensive requests**. For each such currently pending request, the log shall identify the name of the requester, the general subject matter of the request, and the date of acknowledgment; the log shall be a confidential document that is not subject to disclosure except pursuant to proper discovery methods provided discoverable pursuant to proper discovery methods provided under applicable rules of procedure.

(2) The public officer may require the requester to pay a reasonable fee set by the public officer before providing a **substantive response** to the requester. The public officer shall notify the requester in advance of any likely fees and shall withhold **any substantive response** until receipt of payment.

(3) The public officer shall acknowledge the request within 10 calendar days of receiving the request.

(4) The public officer shall notify the requester within 15 business days after acknowledging receipt that the request qualifies as a **time-intensive request**. At that time, the public officer shall notify the requester of any likely fees and allow the requester to withdraw the time-intensive request and submit a new request that is not a time-intensive request. If the requester elects to proceed with a **time-intensive request**, the public officer shall provide a **substantive response** fulfilling or denying the request within 45 business days after the requester elected to proceed with his or her **time-intensive request**. The public officer may extend this period in 45-business-day increments by notifying the requester in writing.

There shall be a rebuttable presumption that a proper **time-intensive request** has been denied by the public officer if: (a) A substantive response is not provided within the earlier of 180 business days or 270 calendar days following the requester's election to proceed with a time-intensive request; or (b) The records are not produced within the earlier of 180 business days or 270 calendar days following the payment of the estimated fees to the public officer.

There shall be no presumption that a proper **time-intensive request** has been denied if (a) the public officer has responded in part; or (b) the public officer and requester have reached an agreement regarding the time or substance, or both, of the response; or (c) good faith negotiations are ongoing between the public officer and the requester; or (d) the public officer has reasonably communicated the status of the request to the requester

REASONABLE COSTS

The College may charge reasonable costs associated with the requests, such as:

- copying fees (.50 cents for the first 100 and .25 cents after 100) and/or

- actual digital storage cost (disc, drive, or other similar item) and/or
- actual mailing costs if not picked up by requestor, and/or
- research fees (\$25 per single or individual record request) and/or
- personnel cost (When staff time and other resources would impose an undue burden on the institution's financial resources or available staff time, additional charges may be assessed when the search for requested documents and/or reproduction consumed more than two hours of employee's time.)

Any of these fees which are estimated must be paid in advance prior to the production of the records requested.

ADDITIONAL INFORMATION

If a public officer responds to a request by seeking clarification or additional information to a **standard request or time-intensive request**, the timelines established in this section shall be tolled and shall restart once the public officer receives the requested clarification or additional information as if the requester had submitted a new request.

A public officer's decision to seek clarification or additional information with respect to any particular request shall not operate as a waiver of the public officer's right to seek clarification or additional information in response to other, future requests.

A request made pursuant to the Open Record Act must identify the requested public record with reasonable specificity. A public officer shall not be obligated to respond to a public records request that is vague, ambiguous, overly broad, or unreasonable in scope.

A public officer shall not be required to create a new public record if the requested record does not already exist. An ACCS entity is not required to create documents, compile data, or prepare reports that have not already been created, compiled, or prepared in the normal course of business.

A public officer shall not be required to respond to requests that seek information or other materials that are not public records. No ACCS entity is required to respond to oral or written questions under Alabama's Open Records laws. No ACCS entity is required to respond to requests for interviews under Alabama's Open Records laws.

No original records may be removed from the ACCS entity.

An ACCS entity is not required to reproduce information published or otherwise generally available to the public, such as on the institution's website or other state agency websites.

The public officer, or his/her designee, will make a reasonably diligent search for the records requested.