

# **SHELBY COUNTY ELECTION COMMISSION**

## **Open Records Policy**

### **GENERAL PROVISIONS**

1. This Open Records Policy and Fee Schedule is adopted by the Shelby County Election Commission (“the Commission”) in order to balance the needs of the Commission to function efficiently and openly and to maintain the integrity of records with that of the citizens of Tennessee’s right to access public records pursuant to the Tennessee Public Records Act.
2. All request for inspection or copies of documents are subject to the constraints on Commission staff while they carry out their duties to administer elections. For this reason, requests to inspect or obtain copies of documents will not be processed between ten (10) days prior to the start of early voting for an election, until after certification of that election.
3. It is the policy of the Commission to maintain, retain and dispose of all of its records as required by state law and to give the citizens of Tennessee the fullest possible access to public records.
4. The definition of “Public record or records” means all documents, papers, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance with the transaction of official business of the Shelby County Election Commission. TCA 10-7-503(a)(1)
5. All public records of the Commission are open to Tennessee Citizens for inspection and/or copying and this written policy is adopted to delineate reasonable rules governing the manner in which records requests are made and fulfilled.

6. Public records requests may only be made by citizens of the State of Tennessee.

## PROCEDURES

1. Requests for copies of public records shall be made in writing and shall include the requestors name, address, date, and sufficient detail and specificity to enable the Commission to identify the specific record to be located or copied.
2. Any request for inspection or copying that is not sufficiently detailed to enable the Commission to identify the specific record to be located or copied will be denied pursuant to Tennessee Code Annotated 10-7-503(a)(7)(B).
3. Any Tennessee Citizen requesting documents must show a picture ID that includes an address.
4. All information for which redaction is required by law, will be redacted from documents before they are provided to the requestor.
5. The Commission will not sort through records to compile information; however any public record kept in the ordinary course of business by the Commission may be inspected at the Operations Center by any citizen of the State of Tennessee during regular business hours. There shall be no charge to inspect a public record during regular business hours.
6. Upon receiving a request for copies of a public record, the Commission will review the request and provide the requestor with an estimate of reasonable fees and costs to provide copies of the requested records and an estimated time to completion. The Commission will require 50% of the estimated fee to be paid up-front as a deposit in advance of any production; however, there shall be no charge to inspect the documents during regular business hours.

7. If the calculated fees and costs for production are less than the deposit made by the requestor, the Commission shall refund to the requestor the deposit minus any fees and costs accrued to that point.
8. If the fees and costs for production are more than the deposit, the fee and cost balance is due before the requestor may receive copies of requested documents; however, there shall be no charge to inspect the documents during regular business hours.
9. If after inspecting the documents, the requestor chooses to not get the copies, the deposit paid by the requestor will still be applied towards any fees and costs accrued to that point.
10. In cases where the requestor fails to return to pick up the copies of requested records, the deposit paid by the requestor will be applied towards any fees and costs accrued.
11. Fees and costs assessed to a requestor from previous request that have not been fully paid will be added to the fees and costs of current requests and must be paid prior to obtaining copies of requested documents; however, there shall be no charge to inspect the documents during regular business hours.

## COPY FEES

1. The Commission will assess a charge of 15 cents per page for each standard 8½ x 11 or 8½ x 14 black-and-white copy produced.
2. For copies of documents which are maintained in color, and for which the requestor has requested a color copy, the Commission will assess a charge of 50 cents per page for each standard 8½ x 11 or 8½ x 14 color copy produced.
3. The charge for a duplex copy is equivalent to the charge of two (2) separate copies.
4. If the actual costs to provide copies of documents requested are higher than the standard fees outlined above, or if the

requested records are being produced on a medium other than 8½ x 11 or 8½ x 14 paper, the Commission shall charge the requestor the actual costs incurred by the Commission for copying.

#### ADDITIONAL PRODUCTION CHARGES

1. In cases where an outside vendor is utilized to produce copies of the requested records, the Commission will assess the actual costs incurred from the vendor to the requestor.
2. In cases where the Commission is assessed any fee for archive retrieval of requested records from an entity having possession of the requested records, the fees and costs incurred will be assessed to the requestor.
3. In cases where documents are provided to the requestor on digital medium, including but not limited to: CDs and DVDs, the Commission will assess a fee of \$10 per disk.
4. Delivery of copies of requested documents is anticipated by the Commission to be made by hand delivery at the Commission's Operations Center (currently located at 980 Nixon Drive, Memphis, Tennessee 38134). The requestor must appear at the Operations Center in order to obtain the requested documents, to pay any assessed fees and costs, and to provide a signature as proof of receipt of the requested copies.
5. For requests that take longer than one-hour to produce, charges for labor for every minute beyond one-hour that it takes for employees to fully process the request will be assessed to the requestor.

#### LABOR CHARGES

1. In all cases, the Shelby County Election Commission will assess a fee for relevant labor charges involved in producing the requested documents or data. "Labor" is defined as the time reasonably necessary to produce the requested records

and includes the time spent locating, retrieving, redacting, and producing the records.

2. Labor charges will be assessed as follows: the requestor will be charged the hourly wage of each employee(s) reasonably necessary to produce the requested records above a one-hour “labor threshold.” The hourly wage is based upon the base salary of the employee(s) not including benefits. For employees who are not paid on an hourly basis, the hourly wage is determined by dividing the employee’s annual salary by the required hours to be worked per year. For example, an employee expected to work 37.5 hours per week receiving \$39,000 annually, will be deemed to be paid \$20 per hour.  $(37.5 \times 52 = 1950 \text{ hours per year}; \$39,000/1950 = \$20/\text{hour})$
3. The total labor charge will be calculated by Shelby County Election Commission as follows: the Commission will calculate the number of hours worked by each of its employee spent in producing the requested records. The Commission will then subtract one (1) hour of labor (the “labor threshold”) from the highest paid employee spent producing the requested records. The Commission will multiply the total amount of time worked by each employee by that employee’s hourly wage. The Commission will then add the total wages for all employees involved in producing the request and that will equal the total amount of labor charged to the requestor.

#### FREQUENT AND MULTIPLE REQUESTS

1. The Shelby County Election Commission will assess additional fees and costs for frequent and multiple public records requests.
2. “Frequent and Multiple requests” is defined as when the number of requests made within a calendar month exceeds four (4).

3. On the fifth (5<sup>th</sup>) request made in a calendar month, the requestor will be charged any and all labor required to produce the request.
4. Documents which are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month are exempt from the “Frequent and Multiple Requests” policy.
5. The Shelby County Election Commission may aggregate the total number of requests made by a requestor or by another individual if the Commission reasonably believes the requestors to be acting in concert with or as the agent of another person, entity or organization. If such a determination is made by the Commission, the commission will file a Notice of Aggregation of Multiple Requestors with the Office of Open Records Counsel and advise the requestors of the determination to aggregate and that they have the right to appeal the determination to the Office of Open Records Counsel.