

NESHOBA COUNTY BOARD OF SUPERVISORS
NESHOBA COUNTY, MISSISSIPPI
PUBLIC RECORDS POLICY

AUTHORITY AND PURPOSE

RULE 1. Authority and purpose.

“It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act. Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records.” Section 25-61-1, Miss. Code of 1972.

“All public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body.” Section 25-61-5, Miss. Code of 1972.

The act defines "public record" to include any "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." Section 25-61-3(b).

The purpose of these rules is to establish the procedures Neshoba County, Mississippi will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Neshoba County, Mississippi and establish processes for both requestors and Neshoba County, Mississippi staff that are designed to best assist members of the public in obtaining such access.

The purpose of the act is to provide the public full access to public records concerning the conduct of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, Neshoba County, Mississippi will be guided by the provisions of the act describing its purposes and interpretation.

PUBLIC BODY DESCRIPTION--CONTACT INFORMATION--PUBLIC RECORDS OFFICER

RULE 2. Public body description--Contact information--Public records officer.

(1) Neshoba County, Mississippi is a body politic operated by the Neshoba County Board of Supervisors charged with conducting the business and governmental affairs of the county. The Neshoba County Board of Supervisors is located at 401 E. Beacon Street, Suite 201, Philadelphia, MS 39350. The Clerk of the Board of Supervisors is the Neshoba County Chancery Clerk, who is located at 401 E. Beacon Street, Suite 107, Philadelphia, Mississippi 39350.

(2) Any person wishing to request access to public records of Neshoba County or seeking assistance in making such a request should contact the Chancery Clerk of Neshoba County, Mississippi aka Public Records Officer.

(3) The Neshoba County Chancery Clerk will oversee compliance with the act but another Neshoba County, Mississippi staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and Neshoba County, Mississippi will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Neshoba County, Mississippi.

AVAILABILITY OF PUBLIC RECORDS

RULE 3. Availability of public records.

(1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of Neshoba County, Mississippi. These hours are Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the offices of the Neshoba County Chancery Clerk. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of Neshoba County, Mississippi or the Neshoba County Chancery Clerk.

(2) **Organization of records.** Neshoba County, Mississippi will maintain its records in a reasonably organized manner. Neshoba County, Mississippi will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Neshoba County, Mississippi records from the Neshoba County Chancery Clerk's offices. A variety of records is available on the Neshoba County, Mississippi web site at www.neshobacounty.net. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(3) **Making a request for public records.** (a) Any person wishing to inspect or copy public records of the Neshoba County, Mississippi should make the request in writing on the Neshoba County, Mississippi request form, or by letter, fax, or e-mail addressed to the Neshoba County Chancery Clerk and including the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to Rule 8 of this policy, standard photocopies will be provided at \$0.50 cents per page.

(c) A form is available for use by requestors at the office of the public records officer and on-line at www.neshobacounty.net.

(d) The public records officer or designee shall not accept requests for public records that contain the above information by telephone or in person.

PROCESSING OF PUBLIC RECORDS REQUESTS — GENERAL

RULE 4. Processing of public records requests – General.

(1) **Providing access.** Neshoba County, Mississippi acknowledges that “providing access to public records is a duty” and that “any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record” in accordance with these policies and Sections 25-61-1 and 25-61-5. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within seven (7) business days of receipt of the request, the public records officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **Consequences of failure to respond.** If Neshoba County, Mississippi does not respond in writing within seven business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If Neshoba County, Mississippi believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspection of records.**

(a) Consistent with other demands, Neshoba County, Mississippi shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the public body to copy.

(b) The requestor must claim or review the assembled records within thirty (30) days of Neshoba County, Mississippi notification to him or her that the records are available for inspection or copying. The public body will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the public body to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, Neshoba County, Mississippi may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same

person for the same or almost identical records, which can be processed as a new request.

(7) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that Neshoba County, Mississippi has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that Neshoba County, Mississippi has closed the request.

(11) **Later discovered documents.** If, after Neshoba County, Mississippi has informed the requestor that it has provided all available records, Neshoba County, Mississippi becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

PROCESSING OF PUBLIC RECORDS REQUESTS – ELECTRONIC RECORDS

RULE 5. Processing of public records requests – Electronic records.

(1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body and is generally commercially available, or in a format that is reasonably translatable from the format in which the public body keeps the record. Costs for providing electronic records are governed by Rule No. 8.

(3) **Customized access to data bases.** With the consent of the requestor, Neshoba County, Mississippi may provide customized access if the record is not reasonably

locatable or not reasonably translatable into the format requested. Neshoba County, Mississippi may charge the actual cost for such customized access.

EXEMPTIONS AND THIRD PARTY INFORMATION

RULE 6. Exemptions.

The Public Records Act, as well as other statutes and court decisions, provide that a number of types of documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by Neshoba County, Mississippi for inspection and copying:

- Academic records exempt from public access, see § 37-11-51.
- Appraisal records exempt from access, see § 31-1-27.
- Archaeological records exempt from public access, see § 39-7-41.
- Attorney work product, examination, exemption, see § 25-1-102.
- Birth Defects Registry, see § 41-21-205.
- Bureau of vital statistics, access to records, see § 41-57-2.
- Charitable organizations, registration information, exemption from public access, see § 79- 11-527.
- Concealed pistols or revolvers, licenses to carry, records, exemption, see § 45-9-101.
- Confidentiality, ambulatory surgical facilities, see § 41-75-19.
- Defendants likely to flee or physically harm themselves or others, see § 41- 32-7.
- Environmental self-evaluation reports, public records act, exemption, see § 49-2-71.
- Hospital records, Mississippi Public Records Act exemption, see § 41-9-68.
- Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77.
- Insurance and insurance companies, risk based capital level requirements, reports, see § 83- 5-415.
- Judicial records, public access, exemption, see § 9-1-38.
- Jury records exempt from public records provisions, see § 13-5-97.

- Licensure application and examination records. exemption from Public Records Act, see § 73-52-1.
- Medical examiner, records and reports, see § 41-61-63.
- Personnel files exempt from examination, see § 25-1-100.
- Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.
- Workers' compensation, access to records, see § 71-3-66.
- Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.

RULE 7. Third Party Information

When any person files or submits documents with Neshoba County, Mississippi which the filer contends are exempt from disclosure under the Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.

Any document filed with Neshoba County, Mississippi which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, Neshoba County, Mississippi shall notify the person who filed the document. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to Section 25-61-9, Miss. Code of 1972.

Any person filing documents with Neshoba County, Mississippi shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. Neshoba County, Mississippi shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will Neshoba County, Mississippi bear any responsibility for a filer's failure to redact such information which leads to or may lead to identity theft or other crime or loss.

COSTS OF PROVIDING PUBLIC RECORDS

RULE 8. Costs of providing public records.

(1) **Costs for paper copies.** Section 25-61-7(1), Miss. Code of 1972, reads as follows: “Except as provided in subsection (2) of this section, each public body may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records.”

A requestor may obtain standard black and white photocopies for \$0.50 cents per page and color copies for \$0.75 cents per page, if available. Copy charges for some specific types of records are set by statute and may exceed the amount stated above.

A statement of the factors and the manner used to determine this charge is available from the public records officer. Before beginning to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records in an installment before providing that installment. Neshoba County, Mississippi will not charge sales tax when it makes copies of public records unless a vendor was retained to make said copies and vendor charged sales tax to Neshoba County, Mississippi.

(2) **Costs for electronic records.** The cost of electronic copies of records shall be depend on the digital data size of the information and/or format of the information requested. Based on the data size and format, Neshoba County will procure the CD-ROM or zip drive at the cost to the requestor. If the public body has scanning equipment at its offices: The cost of scanning existing Neshoba County, Mississippi paper or other non-electronic records is \$0.25 per page. There will be no charge for e-mailing electronic records to a requestor, if such is available. The requestor is responsible for the cost of Neshoba County, Mississippi procuring the CD-ROM or zip drive, plus the time to copy the same and view for information in need of redacting.

(3) **Costs of mailing.** Neshoba County, Mississippi may also charge actual costs of mailing, including the cost of the shipping container.

(4) **Payment.** Payment may be made by cash, check, or money order to Neshoba County, Mississippi. The information requested shall not be dispatched until payment has cleared and is deposited into the account of Neshoba County, Mississippi.

(5) **Charges for searching, reviewing and redacting.** The actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records shall be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.

(6) Neshoba County, Mississippi may require payment in advance for all costs before providing copies or access to records.

REVIEW OF DENIALS OF PUBLIC RECORDS

RULE 9. Review of denials of public records.

(1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer must promptly provide the petition and any other relevant information to the County Administrator. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the Neshoba County, Mississippi receipt of the petition, or within such other time as they and the requestor mutually agree to.

(3) Review by the Ethics Commission. Pursuant to Section 25-61-13, if Neshoba County denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.

(4) Judicial review. Any person whose request for public records was denied may institute a suit in the chancery court of Neshoba County, seeking to reverse the denial, as set forth in Section 25-61-13.

PUBLIC RECORDS REQUEST FORM

NESHOBA COUNTY, MISSISSIPPI

Pursuant to the *Mississippi Open Records Act*, the following public records request is made:

Requestor's name: _____

Requestor's address: _____

Requestor's telephone no.: _____

Requestor's email address: _____

Identification or description of the public records adequate for the public records officer or designee to locate the records: _____

Date and time of day of the request: _____

Requestor understands and acknowledges that if there is a cost of providing public records requested herein that the estimated actual cost for creating and mailing said production must be prepaid by the Requestor.

REQUESTOR'S SIGNATURE