

PUBLIC RECORDS PROCEDURES OF THE LEE COUNTY BOARD OF EDUCATION

1. **Purpose:** To provide uniform procedures regarding producing public records maintained by the Lee County Board of Education (“Board”) pursuant to Ala. Code §36-12-40 *et seq.*, as amended.
2. **Definitions:**
 - (a) “Business Day” shall have the meaning set out in Ala. Code §36-12-43(b)(1) to include any day when the office of the Public Officer, as herein defined, is open to the public and conducting normal operations.
 - (b) “Proper Public Records Request” means a request submitted on a request form prescribed by the Superintendent, which seeks production of public records, is substantially complete and is delivered by hand or by mail consistent with this procedure.
 - (c) “Protected Information” shall include but is not limited to:
 1. Any specific exception to the Open Records Act (Ala. Code §36-12-40 *et seq.*) including without limitation, registration or circulation records concerning the use of public school libraries, records concerning security plans, procedures, assessments, measures, or systems, or having an impact on safety or security of persons, structures, or facilities, or infrastructure, including critical energy infrastructure information.
 2. All confidential written materials submitted to or from any officer or employee of the Board and an attorney for the Board;
 3. Certain personnel records relating to Board employees, including W-2 forms (provided, however, that employees have the right to be notified of requests to access information contained in their personnel file);
 5. Medical records and other personal health information pertaining to employees, unless authorized by the employee;
 6. Test materials given to applicants for employment or promotion with the Board, including the results of any such test;
 7. Certain personal identifying information, such as home address, telephone number, closest living relative information, social security number, taxpayer identification number, etc.;
 8. Internal audit work papers and internal audit reports, including system security information;
 9. All court documents pertaining to the execution of warrants;
 10. Records, papers, letters and other written documents concerning the good name and character of individuals;
 11. Internal or sensitive personnel matters;
 12. Matters of a personal nature where disclosure would constitute a clearly unwarranted invasion of privacy;
 13. Trade secrets;
 14. Commercial and financial information obtained in confidence and/or which is privileged or which, if revealed would interfere with the efficient operations of the Board;
 15. Recorded information received by a public employee of the Board in confidence;

16. Student Educational Records, disclosure of which is regulated by the Family Educational Rights and Privacy Act.
 17. Notes and recordings of meetings made for the limited purpose of assisting with preparation of minutes or transcription of the meeting;
 18. Draft minutes of the Board or of a committee thereof, until those minutes are reviewed and adopted as official minutes of the Board or committee.
 19. Notes or recordings of personnel or student disciplinary hearings, except as transcribed as a record of the proceeding, the distribution of which is limited to use of the parties to the proceeding and their counsel in further proceedings or appeals.
 20. Other records the disclosure of which would be detrimental to the best interests of the public.
 21. Any information requested by a party regarding a matter relevant to a pending or threatened action, suit or proceeding which is submitted in lieu of proper discovery methods provided under applicable rules of procedure.
- (d) "Public Officer" shall mean employee of the Board who, by designation of the Superintendent of the Board, is responsible for responding to public records requests.
 - (e) "Public Records" shall have the meaning set out in Ala. Code §41-13-1, and includes written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the Board.
 - (f) "Resident" shall mean 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, a current, valid Alabama drivers' license or voter registration.
 - (g) "Standard Request" shall mean a proper public records request that seeks one or more specifically and discreetly identified public records that the public officer determines would take less than eight (8) 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 protected information, with no, or minimal clarification by the requester.
 - (h) "Substantive Response" shall mean a response to a proper public records request presented on the form prescribed by the Board 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:
 1. A statement that the public records are provided as attached or enclosed.
 2. A statement that access to the requested public records will be provided at a set time, place, and location mutually agreeable to the public officer and the requester.
 3. A statement that the public officer is prepared to provide the requested public records to the requester upon payment of a reasonable fee.
 4. A statement that denies the request with reasons stated therefor.
 5. A statement that denies the request on the grounds that the requested public record does not exist within the government agency.
 6. A statement that denies the request for failure to substantially complete a standard request form.

7. A statement that denies the request for failure to comply with the written procedures established by the public officer for such request.
8. A statement that denies the request because the records sought are not public or are protected from disclosure by state or federal law.
 - (i) “Time-intensive Request” shall mean 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 responsive records and any time needed to redact or take other measures to withhold protected information.
3. Custody of Records: Custody of public records of the Board shall be maintained by the public employee of the Board responsible for creation and maintenance of the record and will be made available to the public officer designated to respond to public records request for assessment and evaluation of the request for records.
4. Form of Requests: Requests for copies of public records must be in writing and delivered either by hand or by mail on the form prescribed by the Superintendent of the Board. No response will be due to any form that is not substantially completed.
5. Charges for Copies: The cost charged for copies of public records provided in response to a proper standard request mailed or hand-delivered to the public officer, which are maintained in the normal course of business, and which involve no research or extra labor time on the part of Board staff shall be 50 cents (\$0.50) per one-sided document (page) for duplicated copies of not more than 8 inches by 14 inches. For two-sided documents (pages) of up to 8 inches by 14 inches, the charge to duplicate both sides shall be .50 cents (\$0.50) per side. All paper copies will be produced in black and white only. Color copies will not be produced. For documents produced in electronic format there will be a charge of \$8.00 per media unit (CD, Flash Drive and E-mail, etc.) plus a charge of 10 cents (\$0.10) per document (page) provided in the media unit. An additional reasonable charge, as determined by the public officer, may be assessed for copies of unusual size or shape, or where otherwise posted. Waivers or reduction of fees may be made in the discretion of the public officer when deemed appropriate based on factors, including but not limited to nominal or minimal cost of accessing, assembling, or producing records, or nominal or minimal research, computer storage media, computer research. or other staff time necessary to respond to the request.
6. Additional Charges: Copies of “public records” which: a) require more than 15 minutes to locate and/or copy or b) are not easily retrievable because the documents are not regularly maintained in the normal course of business or c) necessitate the use of school district computer time, and which therefore require research and extra time of district staff to compile shall be charged an additional administrative fee, which shall be calculated by multiplying the hourly wage of the employee by the time spent searching for and/or copying the requested records.
7. Time for Payment. Costs assessed by the public officer for all public records produced, and all additional charges associated with the public records request, shall be made before any public records are produced and delivered to the requester.
8. Procedure for Processing Standard Requests:

- (a) Acknowledgment. The public officer shall acknowledge a proper request within ten (10) calendar days of receiving the request.
- (b) Substantive Response. The public officer shall provide a substantive response within fifteen (15) business days of acknowledging receipt of the request; provided, however, the public officer may extend this period in 15-business day increments as deemed necessary for the response, upon written notice to the requester. The public officer's processing of the request should process the request as expeditiously as possible giving due consideration to the requester's time constraints (if known), the public officer's workload, and the nature of the request.
- (c) Rebuttable Presumption of Denial. A rebuttable presumption that a standard request has been denied shall arise if no substantial response is provided within the earlier of 30 business days or 60 calendar days from the date of acknowledgement, or if requested public records have not been produced within the earlier of 30 business days or 60 calendar days following the payment of estimated fees to the public officer; provided, however, that such a presumption does not arise if the request is not proper, the public officer is not required to respond by law, the public officer has responded in part, the parties have reached an agreement regarding the time or substance of the response, negotiations are ongoing, or the public officer has reasonably communicated the status of the request to the requester.

9. Procedure for processing Time-Intensive Requests:

- (a) Notice to Requester of Time-Intensive Nature of Request. The public officer shall notify the requester that the request qualifies as a time-intensive request within fifteen (15) business days of the date of acknowledgement of the request. The notice shall also notify the requester of any likely fees and that the requester may withdraw the request and submit a new request that is not a time-intensive request.
- (b) Substantive Response to Time-Intensive Request. If the requester elects to proceed with a time-intensive request, the public officer shall make a substantive response to the request within 45 business days after receipt of notice that the requester elects to proceed with the request; provided, however, that the public officer may extend this period in 45-business day increments as deemed necessary for the response, upon written notice to the requester.
- (c) Log for Time-Intensive Requests: Whenever a request is designated as a time-intensive request, the public officer shall create and maintain a log to keep track of the status of time-intensive requests. For each such request, at a minimum, the log shall identify the name of the requester, the date of the request, and the date of acknowledgment. The log may include, but shall not be limited to dates, if any, of each of the following occurrences:
 - designating the request as time-intensive
 - notice to requester of time-intensive nature of the request
 - notice to requester of estimated cost of records requested
 - requester's election to proceed with time intensive request
 - requester's payment of estimated cost of records
 - requester's election to withdraw time-intensive request
 - request to requester for clarification or additional information
 - requester's response to request for clarification or additional information
 - notice of any 45-day extension of time for a substantive response
 - notice to requester of final costs of records
 - requester's payment of final cost of records
 - final substantive response, including the production of documents or denial of the request.

The log shall be a confidential document and is not subject to production except in response to proper discovery methods under applicable rules of procedure.

- (d) Rebuttable Presumption of Denial. A rebuttable presumption that a time-intensive request has been denied shall arise if no substantive response is 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 if requested public records have not been produced within the earlier of 180 business days or 270 calendar days following the payment of estimated fees to the public officer; provided, however, that such a presumption does not arise if the request is not proper, the public officer is not required to respond by law, the public officer has responded in part, the parties have reached an agreement regarding the time or substance of the response, negotiations are ongoing, or the public officer has reasonably communicated the status of the request to the requester.

10. Effect of Public Officer's Request for Clarification or Additional Information.

- (a) Tolling of Time for Response. If the public officer responds to a request by seeking clarification or additional information (including a verification of requester's continued interest in the request after notification of the assessed costs of fulfilling the request) the timelines for response shall be tolled and restarted only when the public officer receives the clarification or additional information.
- (b) Decision Not to Seek Clarification or Additional Information No Waiver in Future Requests. A decision not to seek clarification or additional information with respect to any request for public records shall not operate as a waiver of the public officer's right to seek clarification or additional information in future requests.

11. Unreasonable Requests: The public officer shall not be obligated to respond to a public records request that is vague, ambiguous, overly broad, or unreasonable in scope, including those which are intended to harass Lee County Schools, the public officer, or any school system employee or agent, or which seek information or other materials which are not public records. The public officer shall not be obligated to respond to a public records request that is not made pursuant to this procedure.

12. Creation of Documents or Information: A public officer shall not be required to create a new public record if the requested record does not exist, to respond to requests for information which would require the public officer to extract, assemble or compile information into a new document or record, or to provide information other than what is contained in existing documents or information systems.

13. Nothing in this procedure shall prohibit the public officer from identifying a manner of processing a public records request in a manner that is less expensive or more prompt from the perspective of the requester.

14. The Superintendent, or designee, shall promulgate, revise and update such forms as are necessary to implement this procedure and applicable provisions of the Alabama Open Records Act, Ala. Code §36-12-40 *et seq.*, as amended.

Procedure promulgated by the Superintendent.

_____, 2024.

Mike Howard, Superintendent