



Public Records Policy Audit: A survey of 306 Tennessee counties, cities and school districts

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Policies examined October 2017-March 2018

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Tennessee Coalition for Open Government is a nonprofit organization founded in 2003 whose mission is to preserve, protect and improve citizen access to public records and meetings. It tracks legislation and court rulings, and provides a free Help Line and workshops on public records and open meetings laws. More information about TCOG can be found at

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Executive Summary

Many governments have adopted rigid rules for accessing public records

Summary: A 2017-2018 public records policy audit by Tennessee Coalition for Open Government has found that many governmental bodies have adopted rigid rules and hurdles that could be used to slow down or thwart access to public records. Most policies require a driver's license as a condition for inspecting or getting copies of records, and many prohibit citizens from taking pictures of records. Relatively few have incorporated fee waivers for copies of records in the public interest.

In 2016, Tennessee lawmakers passed a new statute requiring each government entity in the state to establish a written public records policy by July 1, 2017. The policies were required to include:

- the contact information for making a public records request,
- the process for citizens making requests,
- the process for responding, and
- any fees that might be charged for copies.

The law states that government bodies cannot "impose requirements on those requesting records that are more burdensome than state law."

Tennessee Coalition for Open Government (TCOG) set out in October 2017 to find out what governing bodies across the state had included in their new policies. TCOG is a nonprofit organization established in 2003 that tracks public records and open meetings issues.

A locked-down culture

As advocates for open government, we had hoped that governing bodies would adopt policies that make getting copies of public records easier for citizens. And indeed, a majority of the policies we examined included helpful information required by the new law, such as the name and contact information for making public records requests.



But our audit of 306 counties, school districts and cities also revealed that the policies did not necessarily assure easier or more efficient access to public records. Many policies created new hurdles for citizens with increasing layers of bureaucracy and rules, some of which could conflict with state law.

First, it should be noted that TCOG could not examine policies from 15% percent of the government entities it surveyed. Nine (9) said they would not mail or email a copy and the only way to get one is to appear in person. Four stated that they did not have a policy. Others did not respond or provide a copy within the seven business days allowed under the law after our auditors called and emailed requesting copies. All three of these responses are violations of the Tennessee Public Records Act. Others sent a document that wasn't a public records policy, pointed an auditor to online information that could not be found, or presented conflicting information.

The remainder (259) either had a public records policy that we could find on their website, or provided a copy to our auditors. Many provided a copy within a few days. Others questioned auditors why they wanted a copy but eventually provided it.

Of the 259 policies examined, many included rules that threaten to slow down access to public records. Only a minority included measures that would assure that copies of documents in the public interest would be freely available.

For example, most say a Tennessee driver's license or some other form of identification proving Tennessee residency is a condition for inspecting or getting copies of public records, *though identification documents are not required by state law*. Many prohibit people from taking a picture of public records with their cell phone. And while one of the biggest barriers for getting copies of public records is the cost, the majority chose against broader provisions to assure that copies of records that are in the public interest are provided free or at low costs to citizens.

The contact information was a positive development. But the new law had specifically required this to be in the policy and not all policies complied. (When contacts were provided, TCOG collected and aggregated them into a list that you can find on www.tcog.info.)

We should also note that the bureaucratic rules in the policies did not always mirror our experience, which was encouraging. Of the government entities who responded to our requests for policies, some did *not* require that our auditors provide a Tennessee driver's license or some other form of identification even when their policy said it was required. This indicates that while governing bodies have largely adopted strict rules, at least some government workers on the front lines were ignoring them and choosing instead to make the process easier and more efficient.

Statistical highlights of findings

In total, of the 306 government entities surveyed, 85% (259 government entities) either provided a public records policy to our auditors or had the policy on its website. The others did not. Of the 259 policies examined:

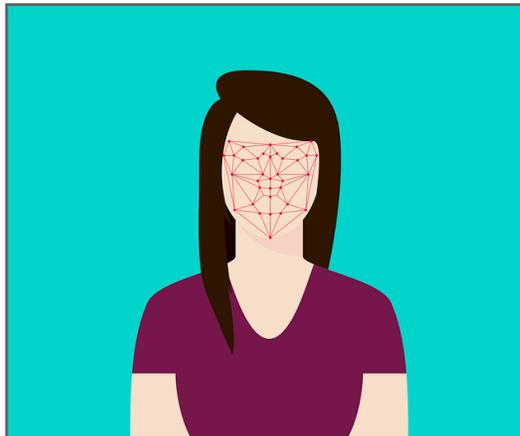
- 84% state that a Tennessee driver's license or some other form of identification must be presented as a condition to inspect or receive copies of public records.
- 48% specifically prohibit a requestor from using personal equipment to make copies of public records that would save on costs; 41% do not mention use of personal equipment at all. Only 5% allow it. Personal equipment can include a scanner or a cell phone that takes pictures or scans.
- A majority (59%) declined to include a fee waiver provision if fees fell under a certain amount. Such a waiver is a recommendation by the Office of Open Records Counsel, reasoning that sometimes the clerical time and cost of handling and processing payments (by cash, check or credit card) is higher than the actual fee collected. Of the 41% who included such a provision, the median amount listed in policies under which fees would be waived was \$5.
- An even larger majority (66%) declined to include a fee waiver provision allowing custodians discretion to waive fees for copies of public records in certain situations when records are determined to be in the best interest of the government entity and for the "public good." Only 33% included such a provision.
- School districts were the least likely to include fee waiver provisions in the policies. Only 3% of school districts allowed a custodian discretion to waive fees in certain situations; and only 4% of school districts waived fees if they fell under a certain amount.
- 84% (218 entities) contained the title or name of a contact person for making public records requests and a phone number. 16% (41 entities) did not list a phone number, which is a common method of contact used by citizens. Many that did not have a phone number instead included only the physical address of the government entity's office.
- 50% percent of policies included an email address for making a public records request or for contacting a public records request coordinator. The omission of email addresses is despite a state law that requires that government entities accept requests for public records via email if a government entity uses email to transact business.

Identification requirements

Who are you? Government entities crack down on ID to access public records

The overwhelming majority of government entities in TCOG's public records policy audit — 84% — state that a requestor must provide identification proving state residency — many specify a Tennessee driver's license — when making a public records request.

This condition of requiring ID for inspecting or getting copies of public records is perhaps the most significant development in the records request process in the past few years in Tennessee and matches a rise in anecdotal complaints TCOG has received from requestors. It's an example of a "locked-down" culture in some government entities where if you don't prove who you are, you can't see a public record that the public is supposed to be able to see.



The requirement can be used to unduly delay access to records, particularly for routine records requests and when there is no reasonable doubt of a person's residency.

For example, some requestors have reported making a request and getting a written response days later denying the request because a driver's license was not provided. Others complain that it should be obvious they are residents when they are using local phone numbers, are employed by local news organizations or other local companies, or have made requests before to the government entity.

Still others question why identification is even needed for access to public records, especially routine records such as meeting minutes and reports.

In cases where a resident calls to request public records, some struggle with creating a copy of their ID that can be sent by email or mail, or are fearful of transmitting a document with their driver's license number on it.

What the law says about identification requirements

The law allows government entities to require a government-issued photo ID, but does not require it:

“(vi) A governmental entity may require any person making a request to view or make a copy of a public record to present a government-issued photo identification, if the person possesses photo identification, that includes the person's address. If a person does not possess photo identification, the governmental entity may require other forms of identification acceptable to the governmental entity.” [T.C.A. § 10-7-503(a)(7)(A)(vi)]

Only 6% of the public records policies audited take a more reasonable position, saying identification *may* be required as opposed to making it a condition in all instances. Such a “may require” provision indicates that the custodian may require identification in some instances, but may not require it in other instances and gives more leeway to the government official on the front lines to use common sense.

Only 2% of the governing entities audited stated in their policies that they would *not* require identification as a condition for accessing public records at all; 6% of the policies make no mention of identification requirements.

One public records policy requires photo identification plus a “valid unexpired Tennessee voter registration card with a street address.”

Questions about rigid ID requirements

More investigation would be needed to determine the logic behind the vast majority of policies now requiring identification as a condition of inspecting or getting copies of records. This audit examined policies, but did not explore the extent to which the government entities, in practice, are following their policies and requiring identification in every instance.

The push to require driver’s license identification across the board can reasonably be linked to state law that allows government entities in Tennessee to refuse to provide non-residents access to their public records. While government entities often provide records to non-residents in a variety of contexts, some have stopped fulfilling records requests to people who do not live in Tennessee.

However, the consequences of a policy requiring identification in all instances likely creates unnecessary steps that causes delays in accessing records in routine situations, and requires more paperwork even for the simplest of requests.

Some questions about actual practices need further study. For example:

- Do government entities require identification each time a request is made, even on subsequent requests by the same requester?
 - Are government entities requiring photo ID even when it is reasonable to believe the person is a local or state resident? For example, such as when the requestor states they are a resident, has a local phone number, or works for a local company or news organization?
 - How many government entities requiring identification for routine public records requests, such as minutes of public meetings?
 - How soon after a request is received without an ID does a government entity let the requestor know ID is required?
 - Are driver’s licenses collected, maintained and tracked as a record of who made requests?
 - What if the person does not have a government-issued photo ID, such as a driver’s license?
 - What if the person lives in a border state yet works in Tennessee?
-

TCOG has received complaints from requestors about these issues. For example:

- A county commissioner in Blount County has complained about an insistence for identification when she requested minutes from a state board's public meeting, even though she had requested and received public records from the same state agency before.
- Journalists who work for identifiable news agencies in Tennessee have complained they are asked to provide identification despite stating who they work for and having local phone numbers and email addresses identified with their employer. A journalist who lived across the border in Georgia and worked in Chattanooga was denied access to public records.
- One requestor shared that he made a records request only to get a response days later that the request was denied because he didn't provide identification. After sending in identification, the government entity told him there were no records responsive to the request.

Some have complained that the government entity keeps a copy of their identification with the request, resulting in a tracking mechanism of who is making requests and for what.

Why the new requirement is in policies

The inclusion of a photo identification requirement is not entirely unexpected.

The Office of Open Records Counsel's Model Public Records Policy, developed as a guide for entities in establishing policies, instructs government entities to determine "whether to require government-issued photo identification as a prerequisite to providing access to public records..."

Likewise, the Open Records Counsel's model policy includes adoptable "either-or" language that instructs entities to either require or to not require proof of Tennessee citizenship such as with a valid Tennessee driver's license.

In addition, a Public Records Request Response Form updated by the Office of Open Records Counsel in 2017 added lack of proof of Tennessee citizenship as a reason for denying access to records.

Fee waivers based on amount

The Office of Open Records Counsel in its "Best Practices and Guidelines" advises government entities that if they choose to charge fees, they should consider waivers in certain circumstances. The office also advises that any waiver of fees should be "expressly set forth and permitted in the adopted public records policy."

Waivers could be based on several factors, such as number of copies requested, the dollar amount for charges, the nature of the record requested and the record's accessibility, the office advises.

One of the waiver provisions offered as optional language in the Open Records Counsel's model policy is for fees under a certain amount: "When fees for copies and labor do not exceed \$____, the fees may be waived," allowing the government entity to fill in the blank with the dollar amount under which it won't collect fees.

The most common logic for a waiver provision for fees under a certain amount is based on the idea that the clerical time and effort spent processing a payment (by cash, check or credit card, for example) at some point costs more than the fee received. It also is a way to lower the cost barriers for citizens getting copies.

Of the 259 policies examined in the TCOG audit, however, the majority (59%) did not allow such fee waivers. Of the 41% that included a provision to waive fees under a certain amount, the median amount listed was \$5.

Some government entities were clearly more generous than others — the thresholds ranged from 15 cents to \$50.

Wilson County and the city of Sevierville had the most generous fee waivers at \$50. Two entities said all records would be "free."



Others are clearly more strict as a matter of policy about collecting fees. One government entity says it will only waive fees under \$10 and only for elected and approved officials of the government (indicating those same elected and approved officials must pay for any copies that cost more than \$10.)

Of the entities audited, 67% of the cities allowed some fee waiver based on the amount and 58% of counties did. By contrast, only 4% of school districts included a fee waiver provision based on fee amount.

What fees are charged by government entities?

The most common fees charged by government entities are per-page fees to cover the cost of copies, and labor fees. While the state standard for per-copy fees are 15 cents per black and white page and 50 cents per color page, there are no standards for labor fees.

The Office of Open Records Counsel's Schedule of Reasonable Charges states that when labor fees are considered: "A records custodian shall utilize the most cost efficient method of producing requested records. Accordingly, a records custodian should strive to utilize current employees at the lowest practicable hourly wage to fulfill public records requests for copies."

The office defines labor broadly to include the time spent locating, retrieving, reviewing, redacting, and reproducing records. And it says that the hourly wage of an employee, not including benefits, should be used to calculate charges, with the first hour being “free.”

But because some government entities have their lawyers review requests, or higher-paid staff, it is not unusual in Tennessee to hear of labor fees well over \$100, even for requests that may have taken only a few hours to compile and redact.

Fee waivers allowing fees to be waived under \$5 will do little to address the issue of the cost of public records in these instances.

Fee waivers based on “public good”

Only 33 percent allow waivers for records for the “public good”

Another type of fee waiver included in the Model Public Records Policy is a discretionary waiver under which a government official could waive fees when the records are considered in the public interest or for the public good.

A discretionary waiver provides the most latitude for public officials to provide public records freely in situations where the public interest is clear, such as when a group of citizens is researching an issue of public importance, or for journalists who are reporting on public affairs.



The Office of Open Records Counsel provided optional language in its model policy for waivers based on “public good.” However, only 33% of the government entities examined chose to include a discretionary “public good” or public interest fee waiver in their policy. The majority of the policies examined, 66%, chose not to include it.

Cities were more likely to include a “public good” fee waiver provision

Like the fee waiver based on fee amount, a larger percentage of cities, 59%, included the “public good” discretionary waiver in their policy than did counties, 41%.

Very few school districts, only 3%, included a “public good” fee waiver provision.

By far, the most common “public good” waiver matched the suggested language in the Office of Open Records Counsel’s model policy:

Requests for waivers for fees above \$_____ must be presented to _____, who is authorized to determine if such waiver is in the best interest of [Name of Governmental Entity] and for the public good.

Most entities who adopted this model language included a name or title of a government official, such as a mayor, records custodian or public records request coordinator who dealt directly with records requestors. More exploration would be needed to determine why this discretionary fee waiver provision overall was less likely to be adopted by governing bodies.

How can public interest fee waivers help?

A public interest fee waiver is probably most important when a government entity spends more than one hour compiling records and the request is not “routine.”

The Office of Open Records Counsel’s Schedule of Reasonable Charges states that when labor fees are considered, a records custodian should utilize the most cost efficient method of producing the records.

But there are no limits on the per-hour cost. And government entities reserve the right to have some of its top-paid employees review requests, often for purposes of redaction. For example, a school superintendent might want to review records prior to release, or a county attorney might handle required redactions. In some counties, an outside law firm is used for reviewing records requested under the public records law, so their rates are applied in labor calculations.

Because of these reasons, it is not unusual in Tennessee to hear of labor fees well over \$100, even for requests that may have taken only a few hours to compile or redact.

When labor fees are high — such as more than \$100 or ranging into the thousands of dollars — they act as a barrier on how often local journalists, groups of citizens or other non-commercial requestors can get copies, even when those records that are clearly being requested for the public interest.

Use of personal equipment to make copies

Taking pictures of public records banned under personal equipment prohibition

The ability of a requestor who is inspecting public records to make their own copies has increased dramatically with technology.

Once, to make your own copies, you might have to bring in a scanner. Now, a citizen can take pictures of public records with their cell phone. It doesn't create a perfect copy, but for many requestors, taking a picture allows them to avoid taking notes with pen and paper and creates a file they can easily share with others and refer to later.

It also allows the requestor to avoid copy fees of 15 cents per black and white page and any labor fees associated with making the copies.

However, the TCOG audit of public records policies found that many government entities have adopted prohibitions against using "personal equipment" to make copies of public records, which could include cell phone cameras. Tennessee Coalition for Open Government's examination of public records policies showed:

- 48% prohibit the use of personal equipment to make copies of public records.
- 41% do not mention the use of personal equipment to make copies.
- 5% state that use of personal equipment is permitted.
- 4% allow or prohibit the use of personal equipment under circumstances described in the policy.
- 2% of the policies were unclear.



The ban on personal equipment is much starker when examining policies by government type. Of the cities surveyed, 78% prohibited use of personal equipment, while only 4% allowed it. Another 13% of city policies did not mention use of personal equipment for making copies, and 5% allowed or prohibited it under certain circumstances that were described.

Of the counties surveyed, 67% prohibited use of personal equipment, while 13% percent allowed it, 9% percent allowed or prohibited under certain circumstances that were described, and 8% did not mention.

Only 8% of school district policies prohibited the use of personal equipment. Most of the school district policies, 92% percent, chose not to mention personal equipment for making copies at all in their policies, leaving some question about what their practice might be if confronted with the issue.

The law on a person's right to make copies

The law provides that:

“(i)n all cases where any person has the right to inspect any such public records, such person shall have the right to take extracts or make copies thereof, and to make photographs or photostats of the same while such records are in the possession, custody and control of the lawful custodian thereof or such custodian’s authorized deputy; provided, that the lawful custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs or photostats.” [T.C.A. § 10-7-506(a)]

While the law specifically says a person has the right to “make copies” and “make photographs,” some government entities point to the following language allowing them to adopt “reasonable rules” to justify their bans on a requestor using personal equipment.

Other entities interpret “reasonable rules” to mean rules about the time and place for requestors to use personal equipment or rules to protect fragile documents.

State's "model policy" gives option

Most policies that included a personal equipment provision picked up language from the Model Public Records Policy published by the Office of Open Records Counsel in 2017:

A requestor will [not] be allowed to make copies of records with personal equipment. [Indicate under what circumstances, if any, the Governmental Entity will permit requestors to make their own copies or provide their own storage devices.]

The inclusion of this language in the model policy indicates that the Office of Open Records Counsel may have concluded it is permissible to ban a requestor from making copies of records with personal equipment, at least under some circumstances.

The issue came to a head in Knox County in late 2017 when it became known that the county's policy prohibited personal equipment, including cell phones, from being used to make copies of records. The county commission, at the request of Mayor Tim Burchett, in December eliminated its ban.

Also in 2017, the Joint Government Operations Committee of the House and Senate expressed concern that some state agency policies prohibited people from taking pictures of public records with their cell phones. The co-chair of that committee, state Sen. Mike Bell, R-Riceville, requested that the entities update their policy to something more reasonable.

More investigation would be necessary to determine why government entities are prohibiting use of personal equipment to make copies, especially when that equipment, such as a cell phone, risks no damage to the actual record.

Many other states that have confronted the issue have concluded that requestors should be allowed to make copies of public records with their phones, noting the employee time saved and paper costs.

Kentucky, Virginia, Georgia, Maine, Iowa, Florida, Washington, Texas, Arizona and Louisiana are just some states that allow photography and use of personal equipment to make copies of non-exempt public records. If there are restrictions, they often are limited to when there is a threat of damage or tearing.

How the audit was conducted

The Tennessee Coalition for Open Government sought and examined policies between October 2017 and March 2018. We sought policies of 306 counties, cities and school districts. The volunteers who collected and examined policies included:

- Professional journalists with major news organizations
- Journalism students at the University of Tennessee and Middle Tennessee State University
- Volunteer citizens, and
- Members of civic groups, such as the League of Women Voters.

TCOG's executive director Deborah Fisher oversaw and checked their work. Dr. Ken Blake, associate professor of journalism at Middle Tennessee State University, provided guidance in setting up the audit tools, including the questions and data collection, and assisted in data analysis.

The auditors first searched for public records policies on the government entities' websites. If the policy could not be found on an entity's website, or if the government did not have a website, the auditors then requested the policy from the governmental entity.

If no contact information was on the entity's website for making a public records request, auditors were instructed to contact the office of the top executive in charge of the entity — for example, the county mayor, city mayor or manager, or school superintendent's office by phone or email. If no one answered a phone call, they were asked to leave a voice mail with their specific request and their contact information. If they emailed, they were asked to provide the same information. They were also instructed to follow any directions provided, such as contacting a different person, sending in a request in writing, or filling out any required forms. Auditors were asked to allow a minimum of 10 business days between requesting and receiving a policy.

We had asked that governmental entities mail or email us the policy.

Who we surveyed

In total, auditors searched websites and requested policies for all of the state's 95 county governments, 109 cities (all of which were above 2,000 population) and 102 school districts.

Of the 306 government entities surveyed, 85% (259 government entities) either provided a public records policy to our auditor or had a public records policy on its website.

In the remainder of cases, 15% (47 government entities) either did not respond to our requests to provide a copy of the policy, required that we come in person to get a copy, stated that they did not have a policy, provided a document other than a public records policy, pointed an auditor to online information that could not be found or presented conflicting information.

The policies we examined are assumed to be current as of the date we received the policy from the entity or found it on the governmental entity's website.

Some government entities had different policies for different departments, such as a separate policy for the county sheriff's office or police department. In cases of multiple policies, we examined the policy of the main executive's policy, such as the policy for the county mayor's office.

Questions: Contact TCOG Executive Director Deborah Fisher at fisher@tcog.info.

Tennessee Coalition for Open Government is a nonprofit established in 2003 to provide education about public records and open meetings issues and to advocate for open government. It conducts research, tracks legislation and court opinions and provides a Help Line to citizens. More information about TCOG can be found at www.tcog.info.

Statistics, broken out by type of government entity

The audit of public records policies of cities, counties and school districts checked policies on a variety of factors. In cases when there were multiple and different policies for different departments, we measured the policy for the main administrator's office, such as the county mayor's office.

Below are more detailed statistics on our highlighted findings.

1. Identification requirements

	Cities	Counties	School Districts	All
Identification required as a condition for inspection / copies (See Note 1)	84%	74%	91%	84%
A requestor may be asked to provide identification (See Note 2)	10%	10%	0%	6%
No mention of identification requirements	6%	1%	9%	6%
Not required	0%	6%	0%	2%
Other / Unclear (See Note 3)	0%	8%	0%	2%

Note 1: Most required a Tennessee driver's license or some other form of acceptable identification proving Tennessee residency.

Note 2: Some policies included language that requestors may be required to provide identification, but did not make it a condition in all instances for inspecting or getting copies of public records.

Note 3. Some policies were unclear about identification or had additional “citizenship” requirements. For example, some had language that says identification “will (not) be required” without indicating if identification will or will not be required. One required both a Tennessee driver’s license and a “valid unexpired Tennessee voter registration card with a street address.”

2. Fee waivers, based on amount

	Cities	Counties	School Districts	All
YES, allows fee waivers based on amount	67%	58%	4%	41%
NO, no fee waiver provision based on amount provided	33%	42%	96%	59%

For the government entities who decided to waive fees under a certain amount, that amount varied. Some government entities were clearly more generous than others. The thresholds found in this audit ranged from 15 cents to \$50. No pattern was detected based on size of the government entity.

Range: 15 cents to \$50

Median: \$5

Average: \$7

3. “Public interest” or “public good” fee waiver based on discretion of custodian

	Cities	Counties	School Districts	All
YES, fee wavier discretion allowed (See Note 1)	59%	41%	3%	33%
NO, no fee waiver discretion provided	41%	58%	95%	66%
Other / Unclear	0%	1%	2%	1%

Note 1: Nearly all policies that allowed fee waiver discretion had specific language derived from the Office of Open Records Counsel model policy that included a blank space for the government entity to name a person or title of a person within the entity “who is authorized to determine if such waiver is in the best interest of (the government entity) and for the public

good.” Sometimes the person named was an elected official, such as a mayor, and sometimes this was a non-elected official, such as a records custodian or a public records request coordinator who dealt directly with records requestors.

4. Using personal equipment

	Cities	Counties	School Districts	All
Prohibit use of personal equipment to make copies	78%	67%	8%	48%
Allows use of personal equipment to make copies	4%	13%	0%	5%
Prohibits or permits use of personal equipment under circumstances that are described	5%	9%	0%	4%
Does not mention	13%	8%	92%	41%
Other / Unclear	0%	3%	0%	2%

5. Type of contact information included

	Cities	Counties	School Districts	All
Phone number	87%	85%	81%	84%
Email address	69%	33%	55%	50%

Law requiring written public records policy, T.C.A. 10-7-503(g)

Tennessee lawmakers in 2016 passed a new law requiring all government entities subject to the Tennessee Public Records Act to establish a written public records policy.

They updated the law in 2018, requiring state agencies to promulgate rules in accordance with the Uniform Administrative Procedures Act (UAPA) instead of adopting policies to meet the requirement of the law. The UAPA procedures allows for public comment, a potential public hearing and more oversight from lawmakers. The law also updated the deadline for state agencies to allow them time to adopt rules, and updated the date for local entities. Below is the **updated** statute:

T.C.A. § 10-7-503 (g) (1) No later than July 1, 2018, every county and municipal governmental entity subject to this section shall establish a written public records policy properly adopted by the appropriate governing authority. The public records policy shall not impose requirements on those requesting records that are more burdensome than state law and shall include:

- (A) The process for making requests to inspect public records or receive copies of public records and a copy of any required request form;
- (B) The process for responding to requests, including redaction practices;
- (C) A statement of any fees charged for copies of public records and the procedures for billing and payment; and
- (D) The name or title and the contact information of the individual or individuals within such governmental entity designated as the public records request coordinator.

(2) No later than January 1, 2019, state governmental entities shall promulgate rules regarding public records, which must meet the requirements under subdivisions (g)(1) (A)-(D). Such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Any written public records policy of a state governmental entity adopted prior to the effective date of this act, if any, remains in full force and effect until the state governmental entity adopts rules in accordance with this subdivision (g)(2).
