

61.01.02 Public Information

Approved April 24, 1996
Revised May 16, 1997
Revised November 12, 1997
Revised March 9, 2000
Revised February 1, 2002
Revised June 17, 2002
Revised November 28, 2007
Revised September 13, 2010
Next Scheduled Review: September 13, 2012



Regulation Statement

This regulation establishes baseline procedures to help The Texas A&M University System (system) members comply with the Texas Public Information Act.

Reason for Regulation

This regulation is required by System Policy *61.01, Public Information Act Compliance*, and it establishes minimum system procedures to be used in the receipt, referral, and response to public information requests.

Procedures and Responsibilities

1. PUBLIC INFORMATION

- 1.1 The Texas Public Information Act, Chapter 552, Texas Government Code (the Act), specifies that, with certain exceptions, all information collected, assembled, or maintained pursuant to law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body, if the governmental body owns or has access to the information, is public information and must be available to the public during normal business hours of the governmental body.
- 1.2 As used in the Act, the term "governmental body" includes boards, committees, institutions, agencies or offices that are within or created by the executive branch of the state government (including the system Board of Regents (board), system members and System Offices) and that are under the direction of one or more elected or appointed members (i.e., system board).
- 1.3 The Act "shall be liberally construed in favor of granting a request for information." *See* Tex. Gov't Code § 552.001.

2. THE OFFICER FOR PUBLIC INFORMATION AND DESIGNATED AGENT

- 2.1 The Act provides that the chief executive officer (CEO) of each system member is the Officer for Public Information, who is responsible for the preservation and care of the member's public records.
- 2.2 Each CEO shall designate an agent to act as public information officer/coordinator (PIO) for that system member. The PIO shall compile and coordinate responses to all public information requests the system member receives. **However, the CEO retains ultimate responsibility for that member's full compliance with the Act.** Also, each CEO shall appoint a backup or alternate PIO to act in the PIO's absence. Each CEO shall also ensure that the identities of the PIO and backup/alternate are prominently displayed and easily accessible on the system member's website. The Office of General Counsel (OGC) and the PIOs for the other system members shall be promptly notified upon the appointment of a new PIO.
- 2.3 The PIO and backup/alternate at each system member shall complete open records training as required by Section 552.012 of the Act.
- 2.4 The PIO shall not make any inquiry of a requestor except to establish proper identification, to seek clarification to determine what public information is being requested, or to seek to narrow the scope of a request for a large amount of information. *See* Tex. Gov't Code § 552.222. All requests shall be treated uniformly without regard to the position or occupation of the requestor or whether he or she is a member of the media.
- 2.5 The PIO shall keep an accurate record of all public information requests the member receives for a given year, including the name and contact information of each requestor, the date on which a request is received, the date on which the records are made available or copies provided, the type of information requested, which departments or units were requested to provide information by the PIO, which departments or units provided the requested information, how much is charged to and paid by the requestor for copies and other costs, if any, and any other information necessary to demonstrate the member's compliance with the Act for each request. The PIO should also keep a record of when an Attorney General decision is sought, and the decision of the Attorney General for a given request, if any.
- 2.6 Not later than the end of each month, the PIO shall electronically submit to the Office of the Attorney General all necessary information on the number and nature of public information requests the member responded to during the prior month. *See* Tex. Gov't Code § 552.010. For example, reports for September of a given year should be submitted to the Attorney General's Office by the end of October of that year.
- 2.7 The PIO for each system member shall ensure that the member timely makes all other reports to the Office of the Attorney General as required by the Act. *See, e.g.*, Tex. Gov't Code § 552.274.
- 2.8 The PIO for each system member shall prominently display the sign in the form approved by the Attorney General "that contains basic information about the rights of a requestor,

the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under” the Act. *See* Tex. Gov’t Code § 552.205.

- 2.9 Each system member shall develop a procedure for public information requests to ensure that the PIO can promptly seek and receive responsive information from the widest reasonable group of departments/units. System members are encouraged to use email and electronic records when possible to expedite responses to public information requests.

3. PUBLIC INFORMATION REQUEST PROCEDURES

- 3.1 Any public information request to a system member must be in writing and should be directed to that member’s PIO. A person submitting a public information request to a system member by email or facsimile must send the request to the person designated as that member’s PIO. If a public information request is mailed or delivered to a member employee other than the PIO, that employee shall immediately forward the request to the PIO.
- 3.2 After receiving a public information request, the PIO shall promptly:
 - 3.2.1 Assign a tracking number to the request that indicates, at a minimum, the current year and cumulative number of the request for that year (for example, YY-001 indicates the 1st request received in the current year).
 - 3.2.2 Forward a copy of the request to the member department/unit or widest group of departments/units that may reasonably possess the requested information. The member department/unit or group of departments/units shall search for the requested information and notify the PIO by the next business day, if possible, what responsive information each department/unit possesses. A copy of the records containing the responsive information shall be forwarded to the PIO as soon as possible.
 - 3.2.3 Send a written acknowledgment of receipt to the requestor, including the assigned tracking number.
 - 3.2.4 Notify the CEO and/or other appropriate member or system contacts of requests that may have public relations significance.
 - 3.2.5 Forward a copy of the request and responsive documents to the OGC if the PIO has a question regarding the applicability of an exception to disclosure under the Act. See Section 5 for seeking a decision from the Attorney General.
- 3.3 If the PIO determines, through consultation with the OGC, the requested information is public, the PIO shall promptly produce to the requestor a copy of the information or produce the information for inspection.
- 3.4 If the information is unavailable within 10 business days after receiving a written request for information, the PIO shall certify this fact in writing to the requestor and set a date

and hour within a reasonable time when the information will be available. *See* Tex. Gov't Code § 552.221.

4. COST OF COPIES

- 4.1 If assessed, copy charges shall not be excessive. Maximum charges for reproduction of public information, reflecting rates approved by the Office of the Attorney General, can be found at 1 Texas Administrative Code Section 70.10 (see link below).
- 4.2 Public information shall be furnished without charge or at a reduced rate if the system member determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Requests for reduced charges should be in writing and addressed to the PIO.

5. PUBLIC INFORMATION DECISIONS

- 5.1 If a system member receives a public information request that: 1) it considers to be within one of the Act's exceptions to disclosure; and 2) it wishes to withhold responsive information from public disclosure, a request for decision must be submitted to the Attorney General within ***10 business days*** after receiving the public information request. In some limited circumstances, the Act may permit the withholding of information without seeking an Attorney General decision, e.g., FERPA.
- 5.2 The PIO will segregate responsive public information from the information submitted to the Attorney General and will promptly produce the public information to the requestor.
- 5.3 The member PIO shall immediately submit information to the OGC for review and for preparation of the Attorney General decision request, including the following:
 - (a) a copy of the written public information request, and information showing when the request was first received by the member;
 - (b) information showing who at the member first received the request;
 - (c) a copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested; and
 - (d) a list of all departments/units that were requested by the PIO to provide responsive information, and what departments/units actually provided the information.

The OGC will then forward the decision request and the information to the Attorney General.

6. EMPLOYEE PUBLIC INFORMATION REQUESTS

- 6.1 System employees are not authorized to submit public information requests to system members while acting in their official capacity. Any public information request made by an employee to a system member must be submitted in that employee's individual capacity as a private citizen.

6.2 The willful misuse of information received through the Act may subject the employee to the loss of individual indemnification by the state. This regulation does not affect employees' access to information in their official personnel files.

7. ANNUAL SYSTEM MEMBER COMPLIANCE CERTIFICATION

Not later than the last business day of September, system members shall annually submit a Public Information Act compliance certification to OGC for the prior fiscal year. The certification will be consistent with the form linked in this regulation. OGC will provide a summary of these certifications to the chancellor.

Related Statutes, Policies, or Requirements

[Texas Government Code, Chapter 552](#)

[Attorney General's Open Government website](#)

[Attorney General's Public Information Act Handbook](#)

[Attorney General's Public Information Act Sign](#)

[1 Tex. Admin. Code, Chapter 70, *Cost of Copies of Public Information*](#)

[System Policy 33.04, *Use of System Resources*](#)

[System Policy 61.01, *Public Information Act Compliance*](#)

[System Regulation 61.99.01, *Retention of State Records*](#)

Appendix

[Annual System Member Public Information Act Compliance Certification Form](#)

[Annual Public Information Report Form](#) (to accompany annual certification)

Contact Office

Office of General Counsel
(979) 458-6120