

## **Title 16: History, Humanities and Arts - Mississippi Library Commission**

### **Part 150: PUBLIC ACCESS TO INFORMATION**

#### **Part 150 Chapter 1: Patron Confidentiality**

**Rule 150.1.1: User Records.** In accordance with §39-3-365, records maintained by the Library Commission which contain information related to the identity of a library user, relative to the user's use of books and other materials in the agency's library are confidential and shall only be released with the express consent of the user or as a result of a court order.

Source: *Mississippi Code of 1972, Annotated* §39-3-107 (Rev. 1988).

#### **Part 150 Chapter 2: Public Records**

**Rule 150.2.1 Mississippi Public Records Act of 1983.** Found in §25-61-1 to §25-61-17, is hereby adopted and incorporated by reference. Unless exempted by §25-61-9, §25-61-11, §39-3-365, or in this section, all public records held by the Library Commission 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 such record in accordance with the procedures outlined below.

Records furnished to the Library Commission by a third party, unless declared exempt in this section, shall also be released in accordance with these rules. A third party shall be notified of public records requests impacting the records of the third party.

Source: *Mississippi Code of 1972, Annotated* §39-3-107 (Rev. 1988).

**Rule 150.2.2 Exemptions to Public Records Act of 1983.** The availability of all records in the possession of the Library Commission shall be subject to the following limitations:

- A. Personnel records and applications for employment and letters of recommendation for employment in the possession of the Library Commission, except those which may be released to the person who made the application or released upon the prior written consent of the person who made the application, shall be exempt from the provisions of the Act. (§25-1-100).
- B. Test questions or answers which are used in employment examinations and in the possession of the Library Commission except that which may be released to the person who made the application or released upon the prior written consent of the person who made the application, shall be exempt from the provisions of the Act. (§25-1-100)
- C. Records which represent and constitute the work product of any attorney, district attorney or county prosecuting attorney representing the Library Commission and which are related to litigation made by or against the Library Commission, or in anticipation of prospective litigation, including all communications between such attorney made in the courses of an attorney-client relationship shall be exempt from the provisions of the Act. (§25-1-102)

- D. Records in the possession of the Library Commission which would disclose information about a person's individual tax payment or status shall be exempt from the provisions of the Act. (§27-3-77)
- E. Appraisal information in the possession of the Library Commission which concerns the sale or purchase of real or personal property for public purposes prior to public announcement of the purchase or sale, where the release of such records could possibly have a detrimental effect on such sales or purchases shall be exempt from the provisions of the Act. (§31-1-27)
- F. Test questions and answers in the possession of the Library Commission which are to be used in future academic examinations and letters of recommendations respecting admission to any educational agency or institution, shall be exempt from the provisions of the Act. (§37-11-51)
- G. Records in the possession of the Library Commission which contain information about the location of any specific archaeological site and which in the opinion of such agency possessing such records, would, upon the disclosure thereof, create a substantial risk of damage or destruction to the historical value of such archaeological site or create a substantial risk of damage or destruction the private property rights, shall be exempt from the provisions of the Act. (§39-7-41)
- H. Records in the possession of the Library Commission which are not otherwise protected by law, that (1) are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, disclosure of which would harm such investigation; (2) would reveal the identity of informants; (3) would prematurely release information that would impede the Library Commission's enforcement, investigation or detection efforts in such proceedings (4) would disclose investigatory techniques; (5) would deprive a person of a right to a fair trial or impartial adjudication; (6) would endanger the life or safety of any Library Commission personnel; (7) are matters pertaining to quality control or PEER review activities, shall be exempt from the provisions of the Act. (§45-29-1)

Source: *Mississippi Code of 1972, Annotated* §39-3-107 (Rev. 1988).

**Rule 150.2.3 Procedures for Requesting Access to Records.** Public access to Library Commission non-exempt records shall be governed by the following procedures:

- A. Individuals desiring to obtain access to public records information held by the Library Commission should make a written request, signed by the individual or duly authorized agent, either by mail to the Executive Director or in person at the Library Commission offices during normal working hours.

- B. Requests for public records shall be received and the request acted upon during the regular business hours.
- C. The written request and the envelope must be plainly marked "Request for Public Records." Failure to so mark the request may delay the Library Commission's response.
- D. The written request shall describe in reasonable detail the records sought. The request should include, if possible, a description of the type of records, dates, title of a publication, and other information which may aid in locating the records.
- E. The written request shall:
  1. Specify whether requestor proposes to access record by inspection or copying.
  2. State date and time for proposed activity.
  3. State number of persons scheduled to participate.
  4. Provide name, address, and home and office telephone number of requestor.

Source: *Mississippi Code of 1972, Annotated* §39-3-107 (Rev. 1988).

**Rule 150.2.4 Production of Records or Denial of Access.** The Executive Director shall determine whether records sought are exempt and shall either produce records or access to records or deny access to or production of records sought within seven (7) working days of receipt of request.

If Executive Director determines that records requested are exempt or privileged under law, the Executive Director shall deny request and send requesting individual a statement of specific reasons for denial. Where possible, nonexempt material shall be separated from exempt material and only exempt material shall be withheld. (§25-61-9) Such denials shall be kept on file for period of three (3) years and be made available for inspection and/or copying during regular working hours by any person upon written request. (§25-61-5)

Individuals provided access to records may do so within normal working hours, in Library Commission offices, and under supervision of agency staff member. Records which an individual wishes to have copied shall be marked by the individual, and the staff member shall attend to reproduction of documents. No records, only reproductions, shall leave building.

Source: *Mississippi Code of 1972, Annotated* §39-3-107 (Rev. 1988).

**Rule 150.2.5 Appeal of a Denial.** In the event a public records request is denied, the requesting individual may appeal the decision using the following procedures:

- A. A requesting individual has thirty (30) calendar days from receipt of the Library Commission's response to appeal the denial.
- B. The appeal shall be submitted in writing to the Executive Director for consideration by the Board for a final administrative determination.

- C. The appeal should contain a copy of the original request, the denial, and the justification for reconsideration.
- D. The appeal and the envelope shall be plainly marked “Public Records Appeal.” Failure to so mark the appeal may delay the response from the Board.
- E. The Board shall issue a written decision granting or denying the appeal within sixty (60) working days after receipt of the appeal unless, after showing good cause, the Board extends the sixty (60) day period. If the appeal is granted, the procedures outlined in “Procedures for Requesting Access to Public Records” shall be initiated. If the appeal is denied, in whole or part, the decision shall set forth reasons for the denial.

Source: *Mississippi Code of 1972, Annotated* §39-3-107 (Rev. 1988).

**Rule 150.2.6 Reference Requests as Public Records Requests.** As a resource library with a large bibliographic collection, the Library Commission routinely receives reference requests for information. On occasion, a request submitted as a reference request is actually a public records request. In such cases, the following procedure shall be initiated:

- A. The reference request in question shall be referred to the Executive Director for review and validation of the public records issue.
- B. Upon validation that the reference question is actually a public records request, the reference question shall be returned to the requestor with instructions as to how to resubmit the question as a public records request.
- C. The individual resubmitting the reference request as a public records request shall be required to follow the procedures outlined in “Procedures for Requesting Access to Public Records.”

Source: *Mississippi Code of 1972, Annotated* §39-3-107 (Rev. 1988).

**Rule 150.2.7 Costs Reimbursement.** The Library Commission hereby establishes a schedule of costs reimbursement to cover the agency’s costs associated with searching, reviewing, overseeing, duplicating and if applicable, mailing copies of public records. Fees shown herein are subject to change. (§25-61-7)

- A. Reimbursement schedule:
  1. No charges, except for packing/handling fees, shall be applied for searching, reviewing and/or duplicating public records if query requires one (1) hour or less or if number of copies required is thirty (30) pages or less.
  2. If query requires more than one (1) hour, \$10.00 per hour per person may be charged for searching, reviewing, and/or duplicating public records. Any part of an hour spent in such activities shall be charged at full hourly rate.
  3. If query requires more than one hundred (100) pages of copies, \$0.15 per page shall be charged for each copy. Copies of pages printed on both front and back shall be considered as two pages for copy charge purposes.

4. \$5.00 packing/handling fee shall be charged on all requests for copies of public records to be shipped or mailed.
5. Costs shall be calculated at applicable rate for each such mailing. If request involves notice to be given to third party, cost of mailing such notice via certified mail return receipt requested shall be charged to person requesting records.
6. Prior to complying with request for public records, Library Commission shall estimate anticipated time and associated charges that may be required and notify the requestor. The requesting individual shall pay the Library Commission estimated charges, according to reimbursement schedule. If actual costs exceed estimated costs, the individual shall remit difference prior to Library Commission releasing public records. Cost reimbursements shall apply even if search is unproductive.

Source: *Mississippi Code of 1972, Annotated* §39-3-107 (Rev. 1988).