



MISSISSIPPI DEPARTMENT OF BANKING AND CONSUMER FINANCE
PUBLIC RECORDS REQUEST POLICY
(Amended August 21, 2020/Effective September 21, 2020)

Rule 4.4.1 General Requests for Inspection and/or Reproduction of Records pursuant to Mississippi Public Records Act.

Each person has a right to inspect and reproduce any public record on file in the offices of the Mississippi Department of Banking and Consumer Finance (“DBCF”), except those records expressly exempted by statute (including but not limited to § 81-1-89 of Mississippi Code of 1972) or DBCF rule. This regulation is intended to provide general guidelines for requests to view or reproduce public records; it is not intended to replace any existing procedure for such requests specified in DBCF Regulations in Title 5, Part 5 pertaining to the State Board of Banking Review.

It is the general policy of DBCF to neither confirm nor deny any ongoing investigation.

The public records policy of the DBCF has been adopted in accordance with the Mississippi Public Records Act of 1983, Section 25-61-1, et seq, Miss. Code Ann. (1972). All records and portions of records not exempt from disclosure will be made available in accordance with these rules.

Source: *Miss. Code Ann. §§ 26-61-1.*

Rule 4.4.2: Definitions.

The following terms have been defined for purposes of this policy.

Public Record: A public record shall mean any book, record, paper, account, letter, map, photograph, film, card, tape, recording or reproduction thereof, and any other documentary material, regardless of physical form or characteristic, 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 the DBCF, or required to be maintained by the DBCF.

Non-exempt Record: A non-exempt record is that part of a public record which does not fall under one of the exceptions to or exemptions from disclosure in the Public Records Act.

Identifiable Record: A record is identifiable if a reasonably specific description of the record has been given, such as the date of the record, the subject matter, division or person involved, etc. which will permit location or retrieval of the record.

Working Day: A working day is any day other than a weekend, state holiday, or other day on which the DBCF is authorized to be closed or all the employees of the office are authorized to be absent.

Incident Report means a narrative description, if such narrative description exists and if such narrative description does not contain investigative information, of an alleged offense, and at a minimum shall include the name and identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.

Investigative Report means records of a law enforcement agency containing information beyond the scope of the matters contained in an incident report, and generally will include, but not be limited to, the following matters if beyond the scope of the matters contained in an incident report:

- (i) Records that are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, the disclosure of which would harm the investigation which may include crime scene reports and demonstrative evidence;
- (ii) Records that would reveal the identity of informants and/or witnesses;
- (iii) Records that would prematurely release information that would impede the public body's enforcement, investigative or detection efforts;
- (iv) Records that would disclose investigatory techniques and/or results of investigative techniques;
- (v) Records that would deprive a person of a right to a fair trial or an impartial adjudication;
- (vi) Records that would endanger the life or safety of a public official or law enforcement personnel, or confidential informants or witnesses;
- (vii) Records pertaining to quality control or PEER review activities; or
- (viii) Records that would impede or jeopardize a prosecutor's ability to prosecute the alleged offense.

Source: *Miss. Code Ann. § 25-61-3.*

Rule 4.4.3: Availability of Records.

Access to all non-exempt records of the DBCF that have been properly requested, deemed subject to disclosure under the Public Records Act, and for which applicable cost payment has been made will be allowed at a scheduled time during regular business hours (8:00 to 5:00 on working days). These records will be made available for inspection and/or copying. If any public record which is held to be exempt from disclosure, as designated below, contains material which is not exempt, the DBCF shall separate the exempt material and make the non-exempt material available for examination and/or copying. The Commissioner or his designee has the authority to specify the mode, manner, time and place of access.

Source: *Miss. Code Ann. § 25-61-5; Miss. Ethics Comm. Model Public Records Rule 4.5(2).*

Rule 4.4.4: Procedures for Handling Public Records Requests.

All requests to examine, copy or obtain public records, shall be in writing utilizing the standard Request for Public Records form, a copy of which is attached hereto as Exhibit A to these rules and is provided at www.dbcf.ms.gov. The request must identify the records, **with particularity**, give the name, mailing address, email address and telephone number of the requesting agency or individual, and must be signed by the requesting party. This requirement may be waived on a case by case basis by the Commissioner or his designee to facilitate the orderly and timely release of the information.

Requests must be submitted by U.S. Mail to the agency's designated Compliance Officer, Richard Rogers, at Post Office Box 12129, Jackson, Mississippi 39326-2129. **An emailed or faxed request does not satisfy the written request requirements.** The Office shall respond to the request in writing within 7 working days from the date of request.

If the records will be disclosed, the Office will give an estimate of the total cost, if any, for compliance with the request. If the estimate is agreeable to the requestor, the DBCF will produce the records requested no later than 14 working days from the date the request and payment are received, or as mutually agreed upon by the parties. Payments must be made by money order, or cashier's check. Denials will be handled pursuant to Rule 4.4.8.

Source: *Miss. Code Ann. § 26-61-5; Miss. Ethics Comm. Model Public Records Rule 3.6.*

Rule 4.4.5: Fees.

Any person desiring copies of public records as defined in the Public Records Act, shall be entitled to obtain mechanically reproduced copies at a charge of fifteen cents (\$.15) per page, which represents the actual cost of such reproduction.

The costs for searching, reviewing, duplicating or separating of non-exempt material from documents, etc., containing exempt material may be charged in addition to a mechanical reproduction charge of fifteen cents (\$.15) per page. The charge for the hours shall be based upon the hourly salary of the lowest paid employee of the DBCF qualified and available to do the job.

Mailing costs calculated at the applicable United States Postal Service rates shall be charged where appropriate. The cost of mailing a notice to third parties via certified mail, return receipt requested, shall be charged to persons requesting the public records.

Source: *Miss. Code Ann. § 26-61-7; Miss. Ethics Comm. Model Public Records Rule 8.*

Rule 4.4.6: Records Furnished by Third Parties Containing Trade Secrets, Confidential Commercial or Financial Information.

Records furnished to the DBCF by third parties, which may contain trade secrets or confidential commercial or financial information, will not be released until reasonable notice to the third parties has been given. For the purpose of providing advance notice to submitters of trade secret or confidential commercial or financial information, thirty (30) days from the submitter's receipt

of written notice shall be deemed a reasonable time for the disclosure of the requested records in the absence of a court order to the contrary.

Source: *Miss. Code Ann. § 26-61-9*.

Rule 4.4.7: Exempt Records.

Any record expressly exempt from the Public Records Act or any record specifically declared to be exempt, confidential, or privileged by any other Mississippi statute, constitutional provision, or judicial order or directive, shall not be subject to inspection and copying. Those records which are specifically exempt by law and which fall within the jurisdiction of the DBCF include, but are not limited to, the following:

- Any reports of examinations or investigations, including all information obtained during the course of such examinations and investigations, conducted pursuant to any statutory authority of the DBCF (*Miss. Code Ann. §§ 81-1-89(1), 81-18-21(8), and 25-61-11*);
- Investigative records (*Miss. Code Ann. § 25-61-12(2)*);
- Personnel records and applications for employment, except those which may be released to the person who made the application or with the prior written consent of the person who made the application. (*Miss. Code Ann. § 25-1-100(1)*);
- Test questions and answers which are to be used in employment examinations (*Miss. Code Ann. § (25-1-100(2))*);
- Letters of recommendation respecting any application for employment (*Miss. Code Ann. § (25-1-100(3))*);
- Records which represent and constitute the work product of any attorney and which are related to litigation initiated by or against the DBCF or in anticipation of prospective litigation, including all communications between such attorney made in the course of an attorney/client relationship (*Miss. Code Ann. § (25-1-102)*);
- All communications made in the course of an attorney-client relationship (*Miss. Code Ann. §§ 25-1-102; 26-61-11; AG Opinion No. 2004-0170*);
- Appraisal information 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 would have a detrimental effect on such sale or purchase (*Miss. Code Ann. § (31-1-27)*);
- Any constitutional law, state or federal statutory law, or decision of a court of this state or the United States that declares a public record to be confidential or privileged, or provides that a public record shall be exempt from the Mississippi Public Records Act (*Miss. Code Ann. § (25-61-11)*).

Source: *Miss. Code Ann. § 26-61-11.*

Rule 4.4.8 Denials.

Denials shall contain the specific reasons for the denial. Copies of all denials shall be maintained on file by the DBCF for not less than three years from the date denial is made.

Petition for Internal Administrative Review of Denial: Any person who objects to the initial denial or partial denial of a records request may, within ten (10) business days of the date of such denial, petition for a review of that decision. The petition must be submitted in writing, via U.S. Mail, to the agency's designated Compliance Officer, Richard Rogers, at Post Office Box 12129, Jackson, Mississippi 39236-2129. An emailed or faxed petition does not satisfy the written request requirement.

Consideration of Petition for Review: The Compliance Officer will provide the petition and any other relevant information to the Commissioner who will either confirm or reverse the denial.

Review by the Ethics Commission. Pursuant to Miss. Code Ann. § 25-61-13, if DBCF 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.

Judicial review. Any person whose request for public records was denied may institute a suit in the chancery court of Hinds County, seeking to reverse the denial, as set forth in Miss. Code Ann. § 25-61-13.

Source: *Miss. Code Ann. §§ 26-61-5(3) and 25-61-13; Miss. Ethics Comm. Model Public Records Rule 9.*



**REQUEST FOR PUBLIC RECORDS OF THE
DEPARTMENT OF BANKING AND CONSUMER FINANCE**

(Please note that requests for records of other state or local agencies must be directed to those agencies.)

Date of Request: _____

Person Requesting: _____

Representing: _____

Street/Mailing Address: _____

City, State, Zip: _____

Telephone: _____ Email Address: _____

Documents Requested (Please be as clear and concise as possible): _____

Review Requested: _____ Personally Inspect _____ Copy of Material

Electronic Copy of Material (if available): _____

Further Instructions: _____

Requestor's Signature: _____

Please submit this request via U.S. Mail, postage prepaid, to the following **(an emailed or faxed request does not satisfy the written request requirements)**:

Department of Banking and Consumer Finance
ATTN: Richard Rogers, Compliance Officer
Post Office Box 12129
Jackson, MS 39236-2129

Note: Actual costs of gathering, reviewing, and reproducing requested materials will be the responsibility of the requestor. Pursuant to Section 25-61-7 of the Mississippi Code, these costs must be paid in advance. If you do not receive a response from our office within seven business days of submitting your request, please contact our office to confirm that we have received your request.

(EXHIBIT A)