



# Montana Teachers' Retirement System

Policy 2-0405-001

Requests for Public Information or Public Records – Fees

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**Section:** Organizational

**Effective Date:** October 7, 2016

**Implementer:** All TRS Personnel

## Purpose

This policy describes TRS's requirements and procedures related to receiving and responding to requests for public information or public records, in conformity with state law. This policy further describes the fees that will be charged by TRS for providing public information/public records.

## Definitions

“Confidential information” means information that is accorded confidential status or is prohibited from disclosure as provided by applicable law. The term includes, but is not limited to, information that is:

- a. constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure;
- b. necessary to maintain the security and integrity of secure facilities or information systems owned by or serving the state or TRS; or
- c. designated as confidential by statute or through judicial decisions, findings, or orders.

“Individual” means an individual human being.

“Person” means an individual, a partnership, a corporation, an association, or a public agency or organization of any character.

“Process the request” means all work required to be performed by TRS staff or by other persons on behalf of TRS to identify, gather, copy, print, format, review, redact, transfer, or deliver information in response to a request for public information.

“Public information” means information prepared, owned, used, or retained by TRS relating to the transaction of official TRS business, except for confidential information. As used in this policy, the term “public information” includes public records.

“Public record” means public information that is:

- a. fixed in any medium and is retrievable in usable form for future reference; and
- b. designated for retention by the state records committee or other applicable authority.

“Records manager” means the TRS staff member designated to be responsible for coordinating the efficient and effective management of the agency's public records and information.

“Redact” means to physically or electronically remove or render unreadable any confidential information contained in public records or public information that will be provided in response to a public records request.

“Requestor” means a person who requests public information from TRS.

## Policy

### A. Right to Request Public Information

1. Any person who is a citizen of or is registered and licensed to do business in the United States may request public information from TRS.
2. The following will not constitute requests for public records and no fee will be charged for the information provided by TRS pursuant to this policy:
  - a. A request by an individual who is a TRS member, retiree or other benefit recipient, or alternate payee, or by any person with a legal right to request information on behalf of the individual for information pertaining to the individual's account with TRS;
  - b. Information legally required or authorized to be provided by TRS pursuant to a valid request by a governmental or regulatory agency or authority;
  - c. Information required to be provided by TRS pursuant to a discovery request or pursuant to a subpoena or order issued in an adjudicatory matter to which TRS is a party, except information requested as public information and provided by TRS during or following an adjudicatory process related to the "public information" status of the requested information.
3. A request for public information must be made using TRS Form 405 Request for Public Information and must be submitted to TRS:
  - a. by hand delivery or by U.S. mail addressed to TRS at 1500 E. Sixth Avenue, or P.O. Box 200139, Helena, MT, 59620-0139; or
  - b. by email addressed to [trsoutreach@mt.gov](mailto:trsoutreach@mt.gov).
4. A written request for public information must include:
  - c. specific identification of the public information being requested or a general description of the public information being requested with sufficient specificity that TRS may meaningfully respond to the request;
  - d. the name of the person (and the individual, if different) making the request (the Requestor); and
  - e. the U.S. mailing address, telephone number, and email address of the Requestor.
5. Within 10 business days of receipt of a written request for public information, or within 30 days if the longer period is necessary for good cause, TRS will do one of the following:
  - a. Deliver the requested information to the Requestor or identify the TRS website location(s) where the public information may be viewed.
  - b. Request clarification of the type or scope of information being requested if not reasonably clear from the original written request. If a request for clarification is made, all time limits in this policy will run from the date that a reasonably clear request for information is provided to TRS in writing.
  - c. Provide a final statement of the fee required prior to delivery of the requested information.
  - d. Provide an estimate of the time it will take to process the request and a statement of the estimated total fee for TRS to process the request.
  - e. Provide notice that the status of some or all of the requested information as public information is in question and the process and timeframe for making the necessary determination, or notice that some or all of the requested information is not public information and the bases for that determination.

6. The Requestor must remit payment of the total fee or estimated fee owed before the requested information will be delivered. If the total or estimated fee is not received by TRS within 60 days of the date of mailing of the fee statement, the request for information will be deemed to have been withdrawn by the Requestor.
7. Upon receipt of the required fee, TRS will provide the requested information to the Requestor within a reasonable time, as follows:
  - a. within 30 days following receipt of the fee payment unless a longer period of time for processing the request was estimated in the written response provided pursuant to (5)(d); or
  - b. within the period of time estimated in the written response provided pursuant to (5)(d). TRS, in its sole discretion for good cause, may extend the timeframe for providing the requested information for an additional reasonable period of time by providing the Requestor written notice (via US mail or email) of the extension.
8. Unless a request pertains to specific public records, TRS will generally provide public information in a format that includes only the specific information requested by the Requestor. If a request is for a specific public record (for example, for a particular TRS member form), TRS's processing of the request will include work required for review and redaction of the public records prior to delivery. Except as specified in (9) or unless TRS agrees to a specific form/format or method at the request of the Requestor, TRS will provide information in response to a public information request in the format and via the delivery method of its choice.
9. TRS may make public information available, including in response to a specific request for public information, by posting public information on the TRS website for access by the general public. To the extent that information posted on the TRS website contains information responsive to a request for public information, TRS's response to the request for information will be to direct the Requestor to the location(s) of responsive information on the TRS website.

B. Fees for Provision of Public Information

1. TRS may assess a fee to process a request for public information. The fee will not exceed the actual costs directly incident to processing the request in the most cost-efficient and timely manner possible.
2. The fee assessed by TRS will be the sum of the following:
  - a. The total time required to identify and gather the requested information at the hourly rate of the TRS staff member performing the work. Generally, the fee for identifying and gathering public information will be the hourly rate of pay for TRS's document manager position. However, if the provision of requested information, including in a specialized form or format requested by the Requestor and agreed to by TRS, requires specialized or outside services to identify, gather, aggregate, format, copy, print, transfer or deliver, such work will be billed at the hourly rate of the TRS staff member or at the actual cost billed to TRS by the outside service provider.
  - b. The total time required, if any, for legal review of requested public records and redaction of non-public information at the rate of \$40.00 per hour.
  - c. The total cost for paper and printing at the rate of 2 ½ cents per page or the actual cost of alternative media on which the information is physically delivered if not included in total billed charges of an outside service provider.
  - d. The actual cost incurred by TRS for postage or for other method of delivery of the requested information if not included in total billed charges of an outside service provider.

**Cross References**

Constitution of Montana, Article II, Section 9; §§ 2-6-1001 through 2-6-1006, MCA

**Signature**

By Board action taken on *August 3, 2016* and by my signature below, the TRS Board has authorized implementation of this original or modified policy. The effective date of this policy is:

\_\_\_\_\_ the date of the Board Action set forth above

X  (date)  October 7, 2016

BY: Kari Peiffer, Board Chair

/s/ Kari Peiffer   
Signature

*TRS policies may be amended or revoked from time to time, with amendments and revocations effective from the date of board action or later date as specified in the policy. The official version of any TRS policy is the version posted on the TRS website, which may be accessed at [www.trs.mt.gov/trsinfo/boardpolicies](http://www.trs.mt.gov/trsinfo/boardpolicies). Any deviation between the official version of a policy and a printed version will be resolved in favor of the official version. Hardcopy prints of policies will be dated as of the date of printing. Please make certain to review the material online prior to placing reliance on a printed version.*