



Texas Association of School Boards

Legal Services

P.O. Box 400 • Austin, Texas 78767-0400 • 512.467.3610 • 800.580.5345 • legal.tasb.org • legal@tasb.org

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Texas Public Information Act Common Cost Questions

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This article answers common questions about what school districts may charge a requestor for providing copies or access to information provided under the Texas Public Information Act (PIA), codified at Chapter 552 of the Government Code. For more general questions about the PIA, see TASB Legal Services' [Texas Public Information Act: Basic Principles](#). A district should consult its legal counsel for specific advice about a specific request for district information.

Q: May a district charge a requestor seeking district information under the PIA?

A: Yes. Subchapter F of the PIA governs how a governmental body, including a school district, may charge for copies of and access to governmental information requested by a member of the public. Tex. Gov't Code §§ 552.261-.275.

Under Section 552.262 of the Texas Government Code, the attorney general has adopted rules specifying how a governmental body is to determine allowable costs for a charge, deposit, or bond associated with making public information available. These rules are found in the Texas Administrative Code section 70.3 entitled *Charges for Providing Copies of Public Information*. Tex. Gov't Code § 552.261(a); 1 Tex. Admin. Code § 70.3.

Q: Are the cost rules different for providing copies of information and for making information available for in-person inspection?

A: Yes. Section 552.261(a) governs allowable charges for costs related to reproducing public information to provide requested copies. Section 552.271 governs allowable charges for costs related to providing inspection of paper records, and section 552.272 governs allowable charges for costs related to providing inspection of electronic records.

Paper Copies

When providing copies of requested information, exceeding 50 paper pages or any amount of electronic information, a district may charge a requestor the following costs:

- labor,
- overhead, and
- materials.

A district may not charge a requestor when paper copies are 50 pages or less, unless the requested information is in two or more separate buildings. Tex. Gov't Code § 552.261(a).

Access or In-person Inspection of Paper Records

When providing access, or in-person inspection, to information on paper records, a district may only charge for the following:

- Copy cost for any page required to be duplicated so that confidential information may be redacted to enable the requestor to inspect the information in person.
- If the district employs 16 or more employees and responsive records to be inspected
 1. are older than five years or when assembled completely fill six or more archival boxes, and
 2. the district estimates it will require more than five hours to prepare the records for inspection, including time for labor to locate and compile the records, redact the confidential information, and copy pages that require redaction. Tex. Gov't Code § 552.271(c); 1 Tex. Admin. Code § 70.5(a)(1).
- If the district employs 15 or fewer employees and responsive records to be inspected
 1. are older than three years or when assembled completely fill three or more archival boxes, and
 2. the district estimates it will require more than two hours to prepare the records for inspection, including time for labor to locate and compile the records, redact the confidential information, and copy pages that require redaction. Tex. Gov't Code § 552.271(d); 1 Tex. Admin. Code § 70.5(a)(2).

Electronic Information

When providing access, or in-person inspection, to electronic information, a district may only charge for the following:

- Labor for programming or manipulation of data required to provide access to electronic information, regardless of whether the information is available directly on-line to the requestor. Tex. Gov't Code § 552.272.

Q: *What is included in the costs of labor?*

A: Labor charges may be differentiated between labor for programming and labor for locating, compiling, manipulating data, and reproducing public information. A district may charge for a programmer's time if a programming services are required to execute an existing program or to create a new program to access and copy requested information. For all other

personnel labor, a district may charge for actual time to locate, compile, manipulate data, and reproduce requested information. 1 Tex. Admin. Code § 70.3(c)-(d).

Q: What is included in the costs of overhead?

A: The overhead charge consists of direct and indirect costs, covering such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. Overhead is a calculation based on a percentage of the total labor charges and may only be charged when labor charges are allowed. If a district chooses to recover overhead, the attorney general's cost rules require a standard calculation computed at 20% of labor costs. 1 Tex. Admin. Code § 70.3(e).

Q: What are examples of allowable labor charges?

A: Examples of labor charges generally may include the following:

- **Locating Information**—Actions taken to determine location or responsiveness of information; physically searching for records; manually entering search terms or instructions into electronic program to conduct electronic searches, but not requiring programming; automated computer retrieval; reviewing a record to locate responsive information or using search commands to identify responsive information
- **Compiling Information**—Gathering and pulling together information; saving a responsive electronic image/file as a duplicate electronic file for production; assembling documents; generally gathering information from various locations, including fees charged by a third party who maintains the requested information for the district.
- **Manipulating Data**—Manual application of redaction marks; computer-assisted application of redactions; enlarging images to facilitate legibility; reformatting Excel files to ensure all information is viewable. (Searching for and/or printing electronic records is not manipulation of data.)
- **Reproducing Information**—Actual time spent copying responsive paper records; actual time spent scanning paper records into electronic form; actual time spent reproducing electronic records. 1 Tex. Admin Code §70.3, .12.

Q: What are examples of labor charges that are not allowed?

A: When calculating the amount of time spent complying with an individual's request for public information under Section 552.275 of the Texas Government Code, a district may not charge for the following:

- Time spent determining the meaning and scope of a request.

- Time spent requesting clarification, discussion opportunity, or additional information from the requestor.
- Time spent comparing records gathered from different sources.
- Time spent determining what exceptions under the PIA apply to responsive information.
- Time spent preparing correspondence associated with the request, either as required by sections 552.301, 552.303, and 552.305 of the PIA, or as optional by the district.
- Time spent preparing a cost statement.
- Time spent reordering, reorganizing, or in any other way bringing information into compliance with well-established and generally accepted information management practices.
- Time spent providing instructions to, or learning by, employees or agents of the district of new practices, rules, and/or procedures, including the management of electronic records.
- Time spent by any person who reviews the requested information to determine whether the district will raise exceptions to disclosure under the PIA.
- Time spent by any person who reviews the requested information to research or prepare a request for an attorney general's ruling under the PIA.
- Time spent looking for responsive information but none is found (or no copies or access provided). 1 Tex. Admin. Code §§ 70.12, .3(d)(3); Tex. Gov't Code §§ 552.261-.275.

Q: May a district charge for labor involved in retrieving documents stored off-site?

A: Yes. To the extent that the retrieval of off-site documents results in a charge to comply with a request, a district is permitted to recover costs of such services for requests that qualify for labor charges. If requested documents are located with a contracted commercial records storage company, and the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), then a district may not charge for any additional labor by the private company's personnel to locate documents at the storage location. If after delivery to the district, school personnel must still search through the records for responsive information, the district may charge for labor in accordance with the PIA. 1 Tex. Admin. Code § 70.3(g).

Q: If a district uses personnel to supervise an in-person inspection by the requestor, may the district charge labor for personnel time?

A: No. A district may only charge for costs related to reproducing the public information, including costs of materials, labor, and overhead. Tex. Gov't Code § 552.261. Supervision of a requester's in-person inspection using personnel is generally a matter of district discretion and not considered to be time to locate, compile, manipulate data, program, or produce data.

Q: For the purpose of calculating charges for providing copies of information, may a district combine multiple requests from separate individuals who submit requests on behalf of an organization?

A: No. A district may not combine multiple requests from separate individuals who submit requests on behalf of the same organization. Tex. Gov't Code § 552.261(e).

Q: For the purpose of calculating charges for providing copies of information, may a district treat all requests received in one calendar day from one individual as one single request?

A: Yes. All requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs under this chapter, unless as otherwise provided by the PIA. Tex. Gov't Code § 552.261(e).

Q: When must a district send a requestor a written cost estimate?

A: If a district estimates that charges will exceed \$40.00, the district must provide the requestor with a written itemized statement of estimated charges before beginning any work on the request. Tex. Gov't Code § 552.2615(a).

A district is also required to provide a written statement when it determines that a request requires programming and/or manipulation of data and

1. complying with the request is not feasible or will substantially interfere with ongoing district operations, or
2. the request can only be fulfilled at a cost that covers the programming and/or manipulation of data. Tex. Gov't Code § 552.231.

A written notice concerning required programming does not require the estimated cost to exceed an amount threshold.

Under both forms of notice, a requestor must respond as required by the PIA or the request will be considered withdrawn. Tex. Gov't Code §§ 552.231(d-1), .2615(a).

Q: What are consequences of miscalculating costs or otherwise providing an improper cost notice?

A: If a district provides a deficient or improper cost notice that does not comply with the PIA, it may be limited in the amount of costs that may be recoverable, and/or it may be restricted from considering a request for information to be considered withdrawn by operation of law. Tex. Gov't Code § 552.2615; 1 Tex. Admin. Code § 70.7(a).

Q: *May a district require a requestor to pay for charges before releasing of responsive information?*

A: Yes. Charges for providing copies of information are considered to accrue at the time the district advises a requestor that the copy is available on payment of the applicable charges. Tex. Gov't Code § 552.261(d).

Q: *May a district charge for the cost of certified mail or other delivery confirmation services?*

A: No, unless the requestor requested and agreed to pay for special delivery services; otherwise, a governmental body may only charge for first-class, regular mail. Tex. Gov't Code § 552.221(b)(2).

Q: *Are there any special exceptions from the attorney general's cost rules to consider?*

A: The attorney general cost rules provided by section 552.262 of the Government Code do not apply if charges for copies provided by a district is established by another statute. For example, section 550.065 of the Texas Transportation Code establishes a charge of \$6.00 for an accident report maintained by a governmental entity. Tex. Transp. Code § 550.065(d). Additionally, section 1701.661 of the Texas Government Code is the sole authority under which a copy of a body worn camera (BWC) recording may be obtained from a law enforcement agency under the PIA, with the fee for obtaining a copy of a BWC recording set by the attorney general at \$10.000 per responsive recording and \$1.00 per full minute of BWC video or audio footage responsive to a request if identical information has not already been obtained by a member of the public in response to a request for information. Tex. Occ. Code § 1701.661(g); 1 Tex. Admin. Code § 70.13. A law enforcement agency may determine that a charge waiver or reduction is in the public interest and provide a copy at reduced or no charge. 1 Tex. Admin. Code § 70.13(c).

Q: *May a district charge more than the costs set by the attorney general?*

A: Only up to 25 percent. A school district may determine its own charges not to exceed 25% of the costs established by the attorney general for providing copies of public information and for providing access to inspection of public information existing in a paper record. Although uncommon, a district may request an exemption from the attorney general to charge actual costs in excess of 25% of the amount established by the attorney general. Tex. Gov't Code § 552.262(a); 1 Tex. Admin. Code § 70.3(a). *See also* 1 Tex. Admin. Code § 70.4 (Requesting an Exemption).

Q: Where may a district learn more about costs allowed under the PIA?

A: The PIA requires the attorney general to maintain uniformity in the application, operation, and interpretation of the PIA. Tex. Gov't Code § 552.011. Therefore, the Office of the Attorney General is the primary source on the PIA. For more information about calculating costs, see the Office of the Attorney General's [Public Information Act](#) Website, the Office of the Attorney General [Charges for Public Information](#) Website, and the Public Information Act Handbook, or call the attorney general's Cost Hotline at 877.672.6787. Supplemental resources about the PIA are also available from TASB's Policy Services, the TASB Store, and TASB's School Law eSource. School district trustees and administrators may also call TASB Legal Services at 800.580.5345.

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/services/legal-services/tasb-school-law-esource/community/documents/common-cost-questions.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schoollawesource.tasb.org.

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