

How do I make a public records request?

In Florida, providing access to public records is the law. With a few exceptions, the records of state and local agencies are subject to the Florida Public Records Act, from records in the Governor's office to those of your local school board. They must give access to public records for inspection as well as for copying. Your request may be made verbally or in writing.

"Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Statutes provide a schedule for copying fees. If no fee is set forth in the Statutes, section 119.07(4)(a)1 of the Florida Statutes permits agencies to charge up to 15 cents per one-sided copy for paper copies that are 14 inches by 8 ½ inches or less and an additional 5 cents for two-sided copies. Agencies can also charge one dollar for certified copies of a public record. For other copies, the charge is limited to the cost of the material and supplies used.

A few exceptions exist where agencies may charge more than 15 cents. Among these are all court records, county maps, aerial photographs, and crash and homicide reports. An agency may not charge a sales tax when providing copies of public records. Sometimes, the nature or the volume of the public records requested will require extensive use of the agency's information technology resources or of the clerical or supervisory personnel assigned to make copies or safeguard records. In these instances, the law allows agencies to charge a service fee for the inspection and copying of public records. All service charges for inspecting public records must be REASONABLE.

Florida law specifically provides that "Each agency that maintains a public record in an electronic recordkeeping system shall provide to any person, pursuant to this chapter, a copy of any public record in the system which is not exempted by law from public disclosure. An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium, and the agency may charge a fee which shall be in accordance with this chapter."

Therefore, agencies are required to provide a copy of the record in the requested format if the agency maintains the record in that format. Agencies are not required to furnish electronic public records in a format other than the standard format routinely maintained

by the agency. For example, if asked for a copy of a computer software disk used by an agency, a typed transcript would not satisfy the requirements of the Public Records Law. If an agency chooses to provide records in a requested format that is different than the standard format used by the agency, the requestor is responsible for the costs of converting or reformatting the information. Once again, it is important that agencies communicate with the requestor any circumstances which will require fees and charges.

Public Records – Exemptions and Redactions

Under Florida's public records law, when a public record contains information that is exempt from disclosure, the records custodian must redact the exempt information and disclose the remainder of the public record. The Constitution requires the Legislature to enact exemptions by general law. Such laws must specify the public necessity justifying the exemption and be narrowly tailored to accomplish its goal. While Chapter 119 must be liberally construed in favor of open government, exemptions are to be strictly construed so they are limited to their stated purpose.

If there is an exemption for information contained in a public record, the agency, in complying with the public records request, is not authorized to "cut corners." If, for example, an agency received a public records request for records that contained identifying information relating to a confidential informant, it would not be acceptable to simply delete the names and addresses of the informant from those records and release other identifying information; instead the agency is under a duty to review the entire record to ensure that all identifying information has been redacted. Even if it is considered impractical or burdensome to redact confidential information from its records, noncompliance with the Public Records Law is not excused.

There is a difference between records which the Legislature has designated as exempt from the Public Records Law and those which have been designated by the Legislature as confidential. Confidential information is not subject to inspection by the public and may only be released to those persons and entities designated in the statute. Exempt records are not subject to the mandatory disclosure requirements of the Public Records Law; an agency, however, is not prohibited from disclosing such records.

The First Amendment foundation maintains a website with an updated database of exemptions under Florida law. You can find it at www.floridafaf.org. If you have any further questions about exempt material, you may call the Attorney General's office at 850-245-0197 or visit our website at www.myflsunshine.com. Additionally, the Government in the Sunshine website may be accessed at www.myflsunshine.com.