

College Operating Procedures (COP)



Procedure Title: Public Records
Procedure Number: 02-0301
Originating Department: Office of General Counsel

Specific Authority:

Board Policy 119.07; 119.071; 1004.70; 1012.81
Florida Statute 6A-14.047
State Board of Education Rule

Adopted: 11/01/10; 04/16/12; 01/08/15

Procedure Actions:

Purpose Statement: Describe the College's responsibilities under Florida's Public Records Law and the procedure to be used in responding to record requests.

I. APPLICABILITY/ACCOUNTABILITY:

This procedure applies to all employees of Florida SouthWestern State College (College).

II. DEFINITIONS:

Public Records - Florida's public records law, Chapter 119 of the Florida Statutes, defines public records as: *All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material, regardless of physical form, or 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.*

III. POLICY STATEMENT:

It is the responsibility of the College and all College employees to comply with Florida's public records law and state retention schedules for public records. All documents and other written materials that are made or received pursuant to law or that are made or received in the transaction of official college business are public records which, regardless of form, are open for public inspection unless the legislature has specifically exempted them from disclosure. Most documents, including e-mail messages, created or received by College employees in connection with official business are public records. Employees may not delete public records in their possession or control except in accordance with the record retention schedules applicable to Florida SouthWestern State College as a state college.

Unless a public record is exempt by statute from disclosure pursuant to the public records statute, it must be produced to any person upon request. Before documents are released pursuant to a

public records request, any exempt documents or exempt information contained within documents must be removed.

All public records must be retained for a period of time that varies depending on the nature of the documents. It is acceptable to retain in paper form documents that were originally sent in electronic form and vice versa. For example, employees may archive electronic mail messages for retention purposes or they may print mail messages to be filed and retained. Similarly, files may be scanned into an electronic database and the original paper files discarded.

IV. PROCEDURES:

Receiving a Public Records Request:

Any department or office may be the recipient of a public records request (for media request, see below). **The department should promptly send a copy of the public records request to the General Counsel's Office**

Format for a Public Records Request:

There is no particular format for a public records request. Public records requests may be made in writing or orally. A department receiving a request for public records may ask that the requestor put his or her request in writing for the sake of clarity, but may not require it. A person does not have to prove a "legitimate" need for a public record to be entitled to inspect it.

Responding to a Public Records Request:

The College must respond to a public records request within a reasonable period of time after receiving the request. What constitutes a reasonable period of time depends upon the circumstances surrounding the request, including the nature of the request, the size of the request, the likely quantity of records to be produced, whether extensive use of information technology resources or clerical services are required, and the timing of the request (i.e., whether holidays intervene).

All media requests should be immediately referred to the designated Director, Communications and Public Information, who will coordinate with the General Counsel's Office, the response to the request with the requestor and the appropriate department or unit in which the records are maintained.

The supervisor of the department or unit in which the records are maintained is responsible for appointing one or more persons to gather the requested documents, and, if asked, make copies for the requestor. When the response to the request is being coordinated by another office, such as Institutional Research, they may either arrange a time for inspection of the documents or provide copies of the documents to the requestor.

Public Record Exemptions:

State and federal laws exempt certain types of public records, or portions thereof, from disclosure under the public records law. Exemptions that frequently apply to Florida SouthWestern State College records include, ***but are not limited to:***

- A. Records reflecting evaluations of employee performance prior to July 1, 2012 as described in Section 1012.81, Florida Statutes;
- B. A student's education records, as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, and the federal regulations issued pursuant thereto including records directly related to an applicant for admission to Florida SouthWestern State College who has not been in attendance at the institution;
- C. Social security numbers;
- D. All direct support organization records: the auditor's report, any information necessary for the auditor's report, any information related to the expenditure of funds, and any supplemental data requested by the board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability;
- E. Medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee;
- F. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building owned or operated by Florida SouthWestern State College;
- G. Biometric identification information including fingerprints;
- H. Personal information and photographs of active or former law enforcement officers, judges, firefighters, and other designated officers and employees or their families; and,
- I. Sealed bids or proposals until such time as the College provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier. If the College rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the College concurrently provides notice of intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt until such time as the College provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial College notice rejecting all bids, proposals, or replies.

Documents that are exempt from the public records law will not be produced. Documents that are public records but contain exempt information will be produced after removing the exempt information, unless the exempt information in the document is so extensive that removal is not feasible. The determination of which documents or information is exempt from the public records law will be made by the Office of General Counsel.

Payment for Public Records Requests:

If the person requesting the records has asked for copies of the documents, the College may charge the requestor 15 cents per one-sided copy or 20 cents per two-sided copy, and 1 dollar for certified copy of a public record. In addition, if retrieving or copying the public records requires *extensive* use of information technology resources or clerical and/or supervisory assistance, the College will assess a reasonable service charge based on the college's actual incurred costs. Reimbursement for these charges may be made to the department or unit that incurred the charge. **An estimate of the charges will be given to the requestor prior to responding to the request. All charges will be collected before producing the requested documents.**

The College follows the 'Extensive Request' definition outlined in Section 119.07(4) (d), Florida Statute. The statute provides:

If the nature or volume of public records requested to be inspected or copied pursuant to this subsection is such as to require *extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both*, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.

An extensive request means that responding to the request will take longer than 30 minutes. For extensive requests the College will charge for the actual staff time to do the work (the hourly rate and benefits of the person[s] doing the work.) Also, if the documents are to be reviewed, the review must be done under the supervision of the College staff member. If this review will take longer than 30 minutes, per Florida Statutes, the cost will be the hourly rate and benefits of the staff member supervising the review.