

Florida Charter School Conference + School Choice Summit 2025

General Outline of Florida Public Records Act and Sunshine Law Requirements for Florida Charter Schools

- The Florida Public Records Act is codified in Chapter 119, Florida Statutes.
- Section 1002.33(16)(b)2., F.S. provides that charter schools are subject to the Public Records Act.
- If a document is a “public record,” the Act requires:
 - That the record be open to inspection and copying by the public;
 - Maintenance of the record for a certain time period; and
 - The record may only be destroyed as specified by the Act.
- There are exceptions to what can be requested, inspected, or copied; always review for confidential and/or exempt information.

What is a Public Record?

- Section 119.011(12), F.S., and Fla. Sup. Ct., defines public records as all materials, regardless of form, that are made or received in connection with the transaction of official business by or on behalf of an agency, which are used to perpetuate, formalize, or communicate knowledge.
- The definition of a public record is very broad and effectively includes anything capable of reproduction.
- The content of the record determines whether it is a material record, not where the document is stored or the device used.

Examples of Public Records:

- E-mails and text messages
- Social media comments or posts
- Website Content
- Employment records
- Papers and letters
- Electronic files
- Photos, videos or films, recordings
- AI transcription of a meeting

Public Records Requests

- Any person may make a request.
- How must they request?
 - Can be oral or in writing (i.e. letter, email, etc.)
 - Cannot require written request or ask why it is made.

- There are no “magic words.” The requestor need not specifically designate the require as a public records request for it to be considered a public records request.
- Tip: If the requestor only makes a request for records orally, consider following up with an email to the requestor that details the records they requested.

Have a Public Records Policy in Place

- Designate a public records custodian and prominently display this information on the school’s website and front office.
- Create a public records policy that includes:
 - Procedures and timelines for retaining and disposing of records.
 - Procedures for sending public record requests to the appropriate person (the custodian).
 - Requirement that each request be immediately acknowledged, and possible timelines for completing each record request.
 - Specifications for any costs or deposits that your school will require an individual who makes a request to pay.
 - Ensure that all employees at the school are aware of what constitutes a Public Records request.
 - Ensure that the public records custodian understands and knows the timeline and retention schedule requirements for the different types of public records.
 - Ensure that the public records custodian has access to all items that constitute public records and that they are maintained.
- Consult with the school’s counsel about assessing fees or how to identify and address confidential or exempt information.

What is the Sunshine Law?

- Sunshine Law is codified in Ch. 286, Florida Statutes.
- The public is entitled to know how and why officials decided to act, not merely the final decision.
- Applies to charter schools by statute, beginning when the charter contract becomes effective.

Sunshine is Open to the Public

- Meetings are open to all who choose to attend.
- Room size should not restrict the number of public members who can attend.
- Avoid limited access facilities.
- All discussions among board members should be audible to attendees.
- The public has an express statutory right to make a comment before the board votes on an issue. Note that this occurs during the decision-making process, not necessarily at the same meeting where the vote takes place.

- The board is allowed to adopt reasonable rules to keep decorum.
 - Consider posting the public participation policy on agendas.
 - Boards should consider a policy of not responding to public comment when it is given.
- Public notice of all meetings must be reasonable; the charter contract or bylaws may require notice to be posted a specific number of days prior to the meeting or notice posted on the school's website.

Meeting Minutes

- Written minutes of a meeting of the board must be promptly recorded and open to public inspection.
- Any changes to meeting minutes must be made at a board meeting open to the public.
- Minutes can be recorded by a board designee.
- Minutes must be posted on the school's website; many charter contracts require minutes to be sent to the school district within a certain time period.
- Drafts and final minutes are subject to the Public Records Act.

"Sunshine" is Just About Everywhere

- Florida Sunshine Law requirements must be met even if a quorum is not present.
- A "meeting" is interpreted broadly; Sunshine Law applies to any gathering of two or more board members to discuss a matter when it is foreseeable that the matter discussed will come before the board for action.
- Even applies to communication between two board members who are not physically present.
- Applies to correspondence between board members regardless of the communication method used.

Helpful Resources

- Florida Government in the Sunshine Law Manual.
 - <https://files.floridados.gov/media/706717/gsl-sl-june-2023.pdf>
- Florida Attorney General Opinions.
 - <https://www.myfloridalegal.com/ag-opinions>
- State of Florida General Records Schedule GS1-SL for State and Local Government Agencies. (retention schedules for public records).
 - <https://files.floridados.gov/media/706717/gsl-sl-june-2023.pdf>
- State of Florida General Records Schedule GS7 for Public Schools Pre-K-12 and Adult and Career Education. (retention schedules for public records).
 - <https://files.floridados.gov/media/706722/gsl-sl-june-2023.pdf>