

Public Records Computer-based Training - Part 5

Welcome

Welcome to the Department's Public Records Computer Based Training, part 5.

As previously mentioned, remember to remain polite to all requestors at all times – whether they are there in person or on the phone. It is okay to tell the requestor that you “can't do this right now” – unless, of course, due to the nature of the request, you really are able to locate and provide the requested records “right now.”

If a requestor is making an in-person request and you are not sure whether a record contains exempt or confidential information, you can say so and politely tell the requestor you are getting someone to assist. Discreetly call the legal office or have someone call for you. Ask someone from legal to come to your area to speak to the person.

If asked for more detail, you can also tell the requestor that if it is determined that the records contain exempt or confidential information, the response will specifically identify what records or information was withheld and will also specify the provision in Florida law that makes each withheld record or piece of information exempt or confidential. Employees should make every effort to determine if the records requested exist and where they are located.

If, after a thorough search, it is determined that the Department has no records that are responsive to the request, the requestor should be advised as soon as possible. The law does not require that new records be created if no responsive records can be found.

For example, a requestor may ask for a report comparing the amount of money the Department spent on furniture each year for the past ten years. If the report exists, a copy can be provided. If individual records exist showing how much was spent each year, those records also can be provided. If the information is stored electronically and a report can be run that will display the data, the report should be run and provided. However, the Department is not required to compile each year's information into a report if no such report exists and the data cannot be retrieved in a report from an electronic database.

If the Department maintains records in a particular format and the requestor wants to receive them in a different format, the Department is only required to provide the records in the format or formats in which they are maintained by the Department. For example, let's say the Department has historical video of roadways in 16mm film format and it has been determined that they are public records. A requestor would like to have the video on CD or DVD. The Department is not required to incur the expense of converting the film to another format.

However, if it is reasonable and the person asking for the film offers to pay the cost of reproduction or conversion, arrangements can be made to do so if the content and integrity of the original documents and information can be maintained. However, the film cannot be given to the requestor for conversion. The film must remain in the custody and control of the Department, and the Department can arrange for the reformatting, with the cost paid by the requestor before the process begins.

Each district legal office has identified an attorney to assist in handling public records matters. Employees should rely on these attorneys as a resource for answers to their public records questions.

Another resource is the “Guidance for Responding to Public Records Requests” which offers helpful information on properly responding to public records requests and is available on the Department’s website. The Guidance document provides information on the need to keep track of the time Department employees spend in responding to a request, information regarding costs and how to handle requests for email, and what to do if a request is vague or unspecific. The Guidance also provides additional contact information for assistance with your public records questions.

We hope that you have learned a lot from this training about public records, the public records law, and how to respond to public records requests.

The following questions will test your knowledge and understanding of the public records law.

Question 1

Someone walks into the Department and says to the receptionist: “I would like to see documentation for all furniture purchases made by the Department over the past 5 years.” This is a public records request and should be handled accordingly. True or False.

True. A public records request does not have to be in writing, the person requesting the documents does not have to give his or her name (except under very limited circumstances), and the person does not have to explain why he or she wants to see the documents (except under very limited circumstances). In fact, the person does not even have to use the word public or records or request for it to be a public records request.

Question 2

A Department employee answers the telephone in his or her unit and the caller wants to come to the Department to look at all files related to a specific contract. The employee should:

- A. Tell the person to call back tomorrow because everyone in the contracts office is out.
- B. Tell the person to send an email detailing what records he or she is requesting.
- C. Ask for the person’s name and contact information and tell him or her that someone will call back later.

D. Write down detailed information about the records requested, advise that he or she can call back tomorrow to learn the status of the request, and immediately give the request to the contracts office.

D. The employee should:

- accurately write down all information;
- not ask for the person's name or why the information was needed;
- give the caller the ability to call back for a status update;
- immediately give the request to someone in the appropriate contracts unit who can follow through with the request.

This is an appropriate manner in which to handle a public records request.

Every employee is responsible for receiving requests for public records. Persons requesting public records should never be told that nothing can be done regarding their request because no one in the office that maintains those records is available.

Public records requests do not have to be in writing and a person requesting public records **should not** be asked to put the request in writing or provide his or her name, contact information, or any other identifying information **except** under very limited circumstances. Employees should be aware of those limited circumstances when such information can be requested and this is not one of them.

Question 3

Video logs of roadways (not bridges) maintained by the Department cannot be provided because they are not public records. True or False.

False. Public records come in all shapes, sizes, and formats. Public records do not have to be paper documents to be accessible to the public upon request. Video logs of roadways are made in connection with the official business of the Department and are therefore public records.

Question 4

When talking to someone who is requesting copies of public records, a Department employee should:

- A. Write down detailed information about the request.
- B. Read back what has been written down to verify the request.

- C. Ask for the person's name and why the documents are being requested only under very limited circumstances.
- D. All of the above.

D. All of the Above. While each individual answer is correct, **D is the best answer.** All Department employees who speak to anyone requesting copies of public records should write down the request (Answer A) and read it back for accuracy (Answer B). Employees should not ask for the person's name and why the documents are being requested except under very limited circumstances, such as when building and structure plans and security system plans are requested (Answer C).

Question 5

Florida's public records law requires that public records requests must be responded to immediately. True or False.

False. The law requires that public records requests be "promptly" acknowledged and responded to in a "reasonable time." Florida law does not require that public records requests must be responded to immediately. **However**, remember that when an extremely simple request is made to inspect or copy a record that obviously does not have exempt or confidential information and is readily accessible (like a request to look at a visitor's log) a reasonable time to respond will be very short.

Question 6

It has been determined that responding to a public records request will require 4.5 hours of personnel time. The person requesting the documents should be charged for:

- A. 4.5 hours multiplied by the hourly rate of the employee doing the work plus 15¢ for each 8 ½ x 11 one sided copy.
- B. 4.0 hours multiplied by the hourly rate of the employee doing the work plus 15¢ for each 8 ½ x 11 one sided copy.
- C. 3.5 hours multiplied by the hourly rate of the employee doing the work plus 15¢ for each 8 ½ x 11 one sided copy.
- D. None of the above.

B. Florida law allows state agencies to impose a service charge for the extensive use of technology resources or extensive clerical or supervisory assistance in responding to a public records request. The Department has established that it will not charge for the first thirty minutes of time spent responding to a public records request.

In this scenario, the requestor should be required to pay for 4.0 hours multiplied by the regular hourly rate of the lowest paid employee who could do the work, not an overtime rate and not the rate of a higher paid employee who may choose to or be directed to perform the work. If copies are provided, the requestor also should be charged the statutory fee of 15¢ for each 8 ½ x 11 one sided copy.

Question 7

When an employee receives a subpoena requiring that documents be provided, it should be treated as a public records request, the documents should be provided, and charges should be assessed based upon the number of copies made and time spent. True or False.

False. A subpoena requesting records of any type is not a public records request and should not be handled as a public records request. When received, all subpoenas should be taken immediately to the legal office for direction and proper handling.

Question 8

A public records request is received asking for a copy of an employee's employment application. The employee was an officer with the local police department prior to joining the Department. What should be provided to the requestor?

- A. A complete copy of the application.
- B. Nothing because job applications are not public records.
- C. A copy of the application without the employee's home address or home telephone number.
- D. None of the above.

C. is the best answer because employment applications in the possession of the Department are public records. However, all applications must be thoroughly reviewed for exempt and confidential information prior to giving a copy to a requestor. In this case, the home address and home telephone number of the employee are exempt because the employee is a former law enforcement officer. The application can be provided after the employee's home address and home telephone number have been deleted (or redacted). Other personal information that may be on the application, such as the name of the employee's spouse, children, and children's schools, is also exempt from the public records law and should be deleted. Other exempt information, if any, on the application, should also be identified and deleted.

Question 9

A person asking for a copy of the emergency evacuation plan for an office building leased by the Department does not have to put the request in writing or explain why the document is needed. True or False.

False. Emergency evacuation plans are included in the public records exemption for security plans – they are confidential and exempt. They can be released only to those people identified in the statute and only upon providing the requestor’s name, reason for the request, and the completion of the required form identified in Procedure 050-020-026 and a determination that the requestor satisfies all requirements to receive a copy of the record.

Question 10

Because I am using my personal electronic device, I can send text messages regarding Department business without worrying about the public records law. True or false.

False. Text messages, both sent and received, regarding department business are public records. Department issued electronic devices should not be able to send or receive text messages. Employees should not use text messaging on their personal devices to conduct Department business. If you receive a text message regarding Department business on your personal device, you must politely advise the sender that the Department does not do business via text messaging, and you must retain the message and produce it in response to any public records request for the message.

This is not optional.

Congratulations on having completed the Public Records Computer Based Training. We hope that the information provided in this training has helped familiarize you with many of the relevant provisions of Florida’s Public Records Law.

You should now have an understanding of the following:

- What is a public record, and how quickly you must respond to a public records request
- What to say and how to say it when someone asks to review or copy public records
- How to charge and how much to charge for time and costs incurred when complying with public records requests
- Who to contact with your questions

If a situation arises regarding a public records request and you are unsure how to handle it, contact your supervisor, the designated public records attorney in your district, or the Office of the General Counsel.

Great Job!

You have now completed all parts of the Public Records CBT. Thank you for your time and attention.