**COMMON PUBLIC RECORDS EXEMPTIONS**

**BACKGROUND:**

Florida began its tradition of openness back in 1909 with the passage of Chapter 119 of the Florida Statutes (F.S.) or the “Public Records Law.” This law provides that any records made or received by any public agency in the course of its official business are available for inspection, unless specifically exempted by the Florida Legislature. [Subsection 119.07(1)(a), F.S.,](http://leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0119/Sections/0119.07.html) provides that “Every person who has custody of a public record shall permit the record to be inspected and copied by any person… at any responsible time, under reasonable conditions, and under supervision by the custodian of the public records.”

Over the years, the definition of what constitutes “public records” has come to include not just traditional written documents such as papers, maps and books, but also tapes, photographs, film, sound recordings, and records stored in computers.

[Subsection 119.011(12), F.S.,](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.011&URL=0100-0199/0119/Sections/0119.011.html) defines “public records” as:

… 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 full text of chapter 119, F.S., is accessible online at [Public Records Law](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0119/0119ContentsIndex.html&StatuteYear=2014&Title=%2D%3E2014%2D%3EChapter%20119).

[Article I, Section 24, of the Florida Constitution](http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes#A1S24) establishes a constitutional right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted pursuant to Article I, Section 24, of the Florida Constitution, or specifically made confidential by the Constitution.

Nothing in the public records law requires that a request for public records be in writing or in person. Unless otherwise exempted, a custodian of public records must honor a request for records, whether it is made in person, over the telephone, or in writing, provided the required fees are paid[[1]](#footnote-1). In addition, nothing in the law requires the requestor to disclose their identity or the reason for the request.

A custodian of a public record who contends that the record or part of a record is exempt from inspection must state the basis for that exemption, including the statutory citation. Additionally, when asked, the custodian must state in writing the reasons for concluding the record is exempt.

Violations of the Public Records Law have significant consequences, as described below:

* Unintentional violations ([subsection 119.10(1)(a), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.10&URL=0100-0199/0119/Sections/0119.10.html)):
  + Non-criminal,
  + Punishable by a fine not exceeding $500.
* Intentional violations (subsections 119.10(1)(b), (2)(a), and (2)(b), F.S.):
  + Criminal [1st degree misdemeanor or 3rd degree felony[[2]](#footnote-2)],
  + Punishable by a fine up to $1,000 and imprisonment not exceeding one year for misdemeanors,
  + Punishable by a fine up to $5,000 and imprisonment not exceeding 5 years for felonies, and
  + Suspension or removal from office ([subsection 112.52(1), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=112.52&URL=0100-0199/0112/Sections/0112.52.html)).
* Attorney’s fees and court costs ([section 119.12, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.12&URL=0100-0199/0119/Sections/0119.12.html)).

Staff may not delete information from a public record in the absence of a statute providing for the confidentiality or exemption of such information. Nor may staff refuse to release an entire record because it may contain some confidential or exempt information; rather staff is required to redact the exempt material and release the rest of the record.

If there is an exemption for information contained in a public record, staff, in complying with the public records request, is not authorized to “cut corners.” If, for example, you 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 staff 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.

The term *redact* is statutorily defined to mean "to conceal **from a copy of an original public record**, or to conceal from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information." Thus, redaction refers to altering a copy of the record rather than physically altering the original document. One very important thing to note about redaction is making sure the redaction method is actually effective. In one instance, a government agency used redaction software which appeared to black out the exempt portions of a document, but when the document was scanned, the portions were highlighted rather than removed. Always check the documents to avoid this type of problem.

There is a difference between records the Legislature has designated as exempt from the Public Records Law and those designated as confidential. *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. *Confidential information* is not subject to inspection by the public and may only be released to those persons and entities designated in the statute.

The provisions of chapter 119, F.S., are applicable to state universities as the definition of*Agency* in section 119.011(2), F.S., includes boards.

“Agency” means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

**EXEMPTIONS AND CONFIDENTIAL MATERIAL:**

Board of Governors and State University System of Florida chief audit executives and chief compliance officers may routinely encounter the types of exempt and/or confidential information listed below. The list is not all-inclusive and does not replace the need to consult with an attorney regarding such exemptions, if necessary.

* **AMERICANS WITH DISABILITIES ACT:** [Americans with Disabilities Act](http://www.ada.gov/2010_regs.htm)

Information from all medical examinations and inquiries that may identify an employee as disabled must be kept confidential and separate from the employee’s personnel file. Such information is available only under limited conditions.

* **ASSESSMENT INSTRUMENTS:** [Section 1008.23, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1008.23&URL=1000-1099/1008/Sections/1008.23.html)

All examination and assessment instruments, including developmental materials and workpapers directly related thereto, which are prepared, prescribed, or administered pursuant to sections 1008.22 and 1008.25, F.S., shall be confidential and exempt from the provisions of sections 119.07(1) and 1001.52, F.S.

* **ATTORNEY RECORDS:** [Subsection 119.071(1)(d), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

A public record that was prepared by an agency attorney (including an attorney employed or retained by the agency or employed or retained by another public officer or agency to protect or represent the interests of the agency having custody of the record) or prepared at the attorney’s express direction, that reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the agency, and that was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or that was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings, is exempt until the conclusion of the litigation or adversarial administrative proceedings.

* **AUDIT WORKPAPERS OF LOCAL GOVERNMENT AGENCIES:** [Section 119.0713, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.0713&URL=0100-0199/0119/Sections/0119.0713.html)

**NOTE:** *We included this exemption for audit working papers although universities do not meet the definition included in the statute. We advise not citing this statute because it does not apply to state universities.*

As used in this subsection, the term “unit of local government” means a county, municipality, special district, local agency, authority, consolidated city-county government, or any other local governmental body or public body corporate or politic authorized or created by general or special law.

The audit report of an internal auditor and the investigative report of the inspector general prepared for or on behalf of a unit of local government becomes a public record when the audit or investigation becomes final. An audit or investigation becomes final when the audit report or investigative report is presented to the unit of local government. Audit workpapers and notes related to such audit and information received, produced, or derived from an investigation are confidential and exempt until the audit or investigation is complete and the audit report becomes final or when the investigation is no longer active. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

* **AUDIT WORKPAPERS OF OFFICES OF INSPECTORS GENERAL:** [Subsection 20.055(6)(b), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=20.055&URL=0000-0099/0020/Sections/0020.055.html)

**NOTE:** *Section 20.055, F.S., applies only to the Office of Inspector General and Director of Compliance and not state universities.*

Audit workpapers and reports shall be public records to the extent that they do not include information that has been made confidential and exempt from the provisions of section 119.07(1), F.S.

* **BANK ACCOUNT, DEBIT, CHARGE, AND CREDIT CARD NUMBERS:** [Subsection 119.071(5)(b), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt.

* **CAMPUS EMERGENCY RESPONSE:** [Section 1004.0962](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=1000-1099/1004/Sections/1004.0962.html)

Any portion of a campus emergency response held by a public postsecondary educational institution, state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management is exempt.

* **COLLECTIVE BARGAINING RECORDS:** Sections [110.201](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=110.201&URL=0100-0199/0110/Sections/0110.201.html) and [447.605](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=447.605&URL=0400-0499/0447/Sections/0447.605.html), F.S.

The Department of Management Services shall coordinate with the Governor and consult with the Administration Commission on personnel matters falling within the scope of collective bargaining and shall represent the Governor in collective bargaining negotiations and other collective bargaining matters as may be necessary.

All discussions between the department and the Governor, and between the department and the Administration Commission or agency heads, or between any of their respective representatives, relative to collective bargaining, shall be exempt from the provisions of section 286.011, F.S. All work products relative to collective bargaining developed in conjunction with such discussions shall be confidential and exempt from the provisions of section 119.07(1), F.S.

All discussions between the chief executive officer of the public employer, or his or her representative, and the legislative body or the public employer relative to collective bargaining shall be closed and exempt from the provisions of section 286.011, F.S. All work products developed by the public employer in preparation for negotiations, and during negotiations, shall be confidential and exempt from the provisions of section 119.07(1), F.S.

* **COMPLAINTS OF DISCRIMINATION:** [Subsection 119.071(2)(g), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

All complaints and other records in the custody of any agency which relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap, or marital status in connection with hiring practices, position classifications, salary, benefits, discipline, discharge, employee performance, evaluation, or other related activities is exempt until:

* A finding is made relating to probable cause,
* The investigation of the complaint becomes inactive, or
* The complaint or other record is made part of the official record of any hearing or court proceeding.
* **COMPLAINTS OF MISCONDUCT:** [Subsection 119.071(2)(k), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

A complaint of misconduct filed with an agency against an agency employee and all information obtained pursuant to an investigation by the agency of the complaint of misconduct is confidential and exempt until:

* The investigation ceases to be active, or
* The agency provides written notice to the employee who is the subject of the complaint that the agency has either:
  + Concluded the investigation with a finding not to proceed with disciplinary action or file charges; or
  + Concluded the investigation with a finding to proceed with disciplinary action or file charges.
* **CRIMINAL INTELLIGENCE INFORMATION:** [Subsection 119.071(2), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

The following types of information are exempt:

* Active criminal intelligence information;
* Active criminal investigative information;
* Any information revealing surveillance techniques or procedures or personnel;
* Any information revealing the substance of a confession of a person arrested until the criminal case reaches final determination by adjudication, dismissal, or other final disposition;
* Any information revealing the identity of a confidential informant or a confidential source;
* Any information that reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime;
* Any document that reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime; and
* The address of a victim of an incident of mass violence.

Additionally, the following types of criminal intelligence or investigative information is confidential and exempt:

* Any information that reveals the identity of the victim of the crime of child abuse or that reveals the identity of a person under the age of 18 who is the victim of the crime of human trafficking;
* Any information that may reveal the identity of a person who is a victim of any sexual offense;
* A photograph, videotape, or image of any part of the body of the victim of a sexual offense, regardless of whether the photograph, videotape, or image identifies the victim;
* Any information in a videotaped statement of a minor who is alleged to be or who is a victim of sexual battery, lewd acts, or other sexual misconduct, which reveals that minor’s identity or personal assets, and which identifies that minor as the victim of a crime, held by a law enforcement agency;
* Certain body camera recordings, or portions thereof;
* Information that reveals the personal identifying information of a witness to a murder for two years after the date on which the murder is observed by the witness; and
* Personal identifying information of the alleged victim in an allegation of sexual harassment.
* **DIRECT SUPPORT ORGANIZATIONS:** [Section 1004.28, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1004.28&URL=1000-1099/1004/Sections/1004.28.html)

Other than the auditor’s report, management letter, any records related to the expenditure of state funds, and any financial records related to the expenditure of private funds for travel, all records of the organization and any supplemental data requested by the Board of Governors, the university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability shall be confidential and exempt from section 119.07(1), F.S.

Any portion of a meeting of the board of directors of the organization, or of the executive committee or other committees of such board, at which any proposal seeking research funding from the organization or a plan or program for either initiating or supporting research is discussed is exempt from section 286.011, F.S., and section 24(b), Article I of the State Constitution.

* **DIVISIONS OF SPONSORED RESEARCH AT STATE UNIVERSITIES:** [Section 1004.22(2), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1004.22&URL=1000-1099/1004/Sections/1004.22.html)

The university shall set such policies to regulate the activities of the divisions of sponsored research as it may consider necessary to administer the research programs in a manner which assures efficiency and effectiveness, producing the maximum benefit for the educational programs and maximum service to the state.

To this end, materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, or proprietary information received, generated, ascertained, or discovered during the course of research conducted within the state universities shall be confidential and exempt from the provisions of section 119.07(1), F.S., except that a division of sponsored research shall make available upon request the title and description of a research project, the name of the researcher, and the amount and source of funding provided for such project.

* **EDUCATIONAL RECORDS AND APPLICANT RECORDS:** [Section 1006.52, F.S.](http://www.leg.state.fl.us/Statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1006.52&URL=1000-1099/1006/Sections/1006.52.html), and [the Family Educational Rights and Privacy Act](https://www.law.cornell.edu/uscode/text/20/1232g) (FERPA)

Each public postsecondary educational institution may prescribe the content and custody of records that the institution may maintain on its students and applicants for admission. A student’s education records, as defined in FERPA and the federal regulations issued pursuant thereto, and applicant records are confidential and exempt. Applicant records are records that are:

* Directly related to an applicant for admission to a public postsecondary educational institution who has not been in attendance at the institution; and
* Maintained by a public postsecondary educational institution or by a party acting on behalf of the public postsecondary educational institution.

FERPA is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

* Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
* Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
* Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
  + School officials with legitimate educational interest;
  + Other schools to which a student is transferring;
  + Specified officials for audit or evaluation purposes;
  + Appropriate parties in connection with financial aid to a student;
  + Organizations conducting certain studies for or on behalf of the school;
  + Accrediting organizations;
  + To comply with a judicial order or lawfully issued subpoena;
  + Appropriate officials in cases of health and safety emergencies; and
  + State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

* **EMPLOYEEE ASSISTANCE PROGRAM:** [Section 110.1091, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=110.1091&URL=0100-0199/0110/Sections/0110.1091.html)

Personal identifying information contained in records held by an employing state agency relating to an employee’s participation in an employee assistance program is confidential and exempt.

* **EMPLOYMENT Q&A:** [Subsection 119.071(1)(a), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt.

* **FLORIDA EDUCATION AND TRAINING PLACEMENT INFORMATION PROGRAM:** [Section 1008.39, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1008.39&URL=1000-1099/1008/Sections/1008.39.html)

The Florida Education and Training Placement Information Program must not make public any information that could identify an individual or the individual’s employer. The Department of Education must ensure that the purpose of obtaining placement information is to evaluate and improve public programs or to conduct research for the purpose of improving services to the individuals whose social security numbers are used to identify their placement.

If an agreement assures that this purpose will be served and that privacy will be protected, the Department of Education shall have access to the reemployment assistance wage reports maintained by the Department of Economic Opportunity, the files of the Department of Children and Families that contain information about the distribution of public assistance, the files of the Department of Corrections that contain records of incarcerations, and the files of the Department of Business and Professional Regulation that contain the results of licensure examination.

* **HEALTH SERVICES SUPPORT ORGANIZATIONS:** [Section 1004.29, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1004.29&URL=1000-1099/1004/Sections/1004.29.html)

Each university health services support organization shall provide for an annual financial audit in accordance with section 1004.28(5), F.S. The auditor’s report, management letter, and any supplemental data requested by the Board of Governors, the university board of trustees, and the Auditor General shall be considered public records, pursuant to section 119.07, F.S.

* **INTELLECTUAL PROPERTIES AND TRADE SECRETS:** Sections [815.04](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=815.04&URL=0800-0899/0815/Sections/0815.04.html)and [815.045](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=815.045&URL=0800-0899/0815/Sections/0815.045.html), F.S.

Data, programs, or supporting documentation that is a trade secret as defined in section [812.081](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=815.04&URL=0800-0899/0812/Sections/0812.081.html), F.S., that is held by an agency as defined in chapter 119, F.S., and that resides or exists internal or external to a computer, computer system, computer network, or electronic device is confidential and exempt.

The Legislature finds that it is a public necessity that trade secret information be expressly made confidential and exempt from the public records law because it is a felony to disclose such records.

* **INVESTIGATION OF EMPLOYEE MISCONDUCT:** [Subsection 1012.91(b), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1012.91&URL=1000-1099/1012/Sections/1012.91.html)

Records maintained for the purposes of any investigation of employee misconduct, including but not limited to a complaint against an employee and all information obtained pursuant to the investigation of such complaint, shall be confidential until:

* The investigation ceases to be active; or
* Until the university provides written notice to the employee who is the subject of the complaint that the university has either:
* Concluded the investigation with a finding not to proceed with disciplinary action;
* Concluded the investigation with a finding to proceed with disciplinary action; or
* Issued a letter of discipline.
* **MEDICAL INFORMATION OF AGENCY PERSONNEL AND DEPENDENTS:** [Subsection 119.071(4)(b), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

Medical information pertaining to a prospective, current, or former officer or employee of an agency, which, if disclosed, would identify that officer or employee, is exempt. Additionally, personal identifying information of a dependent child of a current or former officer or employee of an agency, who is insured by an agency group insurance plan, is exempt.

* **MOTOR VEHICLE RECORDS:**

Both state ([subsection 119.0712(2), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.0712&URL=0100-0199/0119/Sections/0119.0712.html)) and federal ([Driver’s Privacy Protection Act of 1994, 18 U.S.C. ss. 2721](http://www.law.cornell.edu/uscode/text/18/2721) et seq.; the [Fair Credit Reporting Act, 15 U.S.C. ss. 1681](http://www.law.cornell.edu/uscode/text/15/1681) et seq.; or the [Financial Services Modernization Act of 1999, 15 U.S.C. ss. 6801](http://www.law.cornell.edu/uscode/text/15/6801) et seq.) laws limit public access to certain parts of a driver’s motor vehicle record. Such limitations may relate to personal information, e-mail addresses, and emergency contact information contained within the record.

Florida statutes define a motor vehicle record as, “any record that pertains to a motor vehicle operator’s permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles.”

Florida law allows for the release of the information to government agencies for the purposes of carrying out their functions. The information may also be released under both state and federal law, "for any other use specifically authorized under state law, if such use is related to the operation of a motor vehicle or public safety."

* **PERSONAL INFORMATION OF CERTAIN EMPLOYEES AND THEIR SPOUSES AND CHILDREN:** [Section 119.071(4)(d), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

Home addresses, telephone numbers, dates of birth, and sometimes photographs of certain employees, their spouses and children; the names of certain employees’ spouse and children; the places of employment of certain employees’ spouse and children; and the names and locations of schools or day care facilities for certain employees’ children are exempt from section 119.07(1), F.S., and section 24(a), Article I of the State Constitution. A wide variety of exemptions may apply, including:

* + Active or former sworn or civilian law enforcement officers[[3]](#footnote-3);
  + Specified current or former nonsworn investigative personnel of the Department of Financial Services;
  + Specified current or former nonsworn investigative personnel of the Office of Financial Regulation’s Bureau of Financial Investigations;
  + Current or former firefighters;
  + Current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;
  + Current or former state attorneys, assistant state attorneys, statewide prosecutors, assistant statewide prosecutors, general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers;
  + Specified current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district;
  + Current or former code enforcement officers;
  + Current or former guardians ad litem;
  + Current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice;
  + Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel;
  + Current or former investigators or inspectors of the Department of Business and Professional Regulation;
  + County tax collectors;
  + Specified current or former personnel of the Department of Health;
  + Specified current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant;
  + Current or former emergency medical technicians or paramedics certified;
  + Specified current or former personnel employed in an agency’s office of inspector general or internal audit department;
  + Current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; and
  + Current or former directors, managers, supervisors, and clinical employees of a child advocacy center and the members of a child protection team.
* **PUBLIC-PRIVATE PARTNERSHIPS PROPOSALS:** [Section 255.065, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=255.065&URL=0200-0299/0255/Sections/0255.065.html)

An unsolicited proposal is exempt for no longer than 90 days after the initial notice by the responsible public entity rejecting all proposals. If the responsible public entity does not issue a competitive solicitation for a qualifying project, the unsolicited proposal ceases to be exempt 180 days after receipt of the unsolicited proposal by such entity.

Any portion of a meeting of a responsible public entity during which an unsolicited proposal that is exempt is discussed is exempt from section 286.011, F.S., and section 24(b), Article I of the State Constitution. A complete recording must be made of any portion of an exempt meeting. No portion of the exempt meeting may be held off the record.

The recording of, and any records generated during, the exempt meeting are exempt from section [119.07](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=255.065&URL=0100-0199/0119/Sections/0119.07.html)(1) and section 24(a), Article I of the State Constitution until such time as the responsible public entity provides notice of an intended decision for a qualifying project or 180 days after receipt of the unsolicited proposal by the responsible public entity if such entity does not issue a competitive solicitation for the project.

If the responsible public entity rejects all proposals and concurrently provides notice of its intent to reissue a competitive solicitation, the recording and any records generated at the exempt meeting remain exempt from s. [119.07](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=255.065&URL=0100-0199/0119/Sections/0119.07.html)(1) and s. 24(a), Art. I of the State Constitution until such time as the responsible public entity provides notice of an intended decision concerning the reissued competitive solicitation or until the responsible public entity withdraws the reissued competitive solicitation for such project.

* **SECURITY AND FIRESAFETY SYSTEMS AND PLANS:** Subsections [119.071(3)](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html) and [281.301](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=281.301&URL=0200-0299/0281/Sections/0281.301.html), F.S.

Information relating to the security or firesafety systems for any property owned by or leased to the state or any of its political subdivisions, and information relating to the security or firesafety systems for any privately owned or leased property in the possession of any agency as defined in Section [119.011](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0119/Sec011.HTM)(2), F.S., is confidential and exempt from Sections [119.07](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0119/Sec07.HTM)(1), Florida Statutes, and section 24(a), Art. I of the State Constitution.

Additionally, all meetings relating directly to or that would reveal such systems or information are confidential and exempt from section [286.011](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0286/Sec011.HTM), F.S, section 24(b), Art. I of the State Constitution, and other laws and rules requiring public access or disclosure.

The term *security system plan* includes all:

* Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security or firesafety of the facility or revealing security systems;
* Threat assessments conducted by any agency or any private entity;
* Threat response plans;
* Emergency evacuation plans;
* Sheltering arrangements; or
* Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.
* **SECURITY OF DATA AND INFORMATION TECHNOLOGY IN STATE AGENCIES:** [Subsections 282.318(2)(d),(e),(g)(j), and (5), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=282.318&URL=0200-0299/0282/Sections/0282.318.html)

**NOTE:** *This does not apply to university boards of trustees or state universities as they are explicitly excluded from the definition of “state agency” used in subsection 282.0041(23), F.S.*

The following state agency records are exempt and confidential*:*

* Comprehensive risk assessments which determine the security threats to the data, information, and information technology resources, including mobile devices and print environments, of the agency;
* Written internal policies and procedures for reporting information technology security incidents and breaches which, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources;
* The results of internal audits and evaluations of the agency’s information technology security program for the data, information, and information technology resources of the agency;
* Records which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, which, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources; and
* Portions of risk assessments, evaluations, external audits, and other reports of a state agency’s information technology security program, which, if disclosed, facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources.

However, the above information shall be available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, the Agency for State Technology, and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.

* **SECURITY OF DATA AND INFORMATION TECHNOLOGY IN STATE POSTSECONDARY EDUCATION INSTITUTIONS:** [Section 1004.055, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1004.055&URL=1000-1099/1004/Sections/1004.055.html)

All of the following data or information from technology systems owned, under contract, or maintained by a state university is confidential and exempt, if the disclosure would facilitate unauthorized access to or modification, disclosure, or destruction of data, information, or information technology resources:

* Records that identify detection, investigation, or response practices for suspected or confirmed information technology security incidents; and
* Portions of risk assessments, evaluations, audits, and other reports of the university’s information technology security program.

Information technology resources include:

* Information relating to the security of the university’s technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
* Security information, whether physical or virtual, which relates to the university’s existing or proposed information technology systems.

Additionally, portions of a public meeting which would reveal such data and information as described above are exempt from section 286.011, F.S., and section 24(b), Article I of the State Constitution. All exempt portions of such a meeting must still be recorded and transcribed. The recording and transcription is confidential and exempt from disclosure under section 119.07(1), F.S., and section 24(a), Article 1 of the State Constitution unless a court of competent jurisdiction determines that the meeting was not restricted to the discussion of data and information made confidential and exempt.

However, the records and portions of public meeting recordings and transcripts must be available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, and the Board of Governors. They may also be made available to a state or federal agency for security purposes or in furtherance of the agency’s official duties.

* **SELF-INSURANCE PROGRAM CLAIM FILES:** [Section 1004.24, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1004.24&URL=1000-1099/1004/Sections/1004.24.html)

No self-insurance program adopted by the Board of Governors, or the board’s designee, may sue or be sued. The claims files of any such program are privileged and confidential, exempt from the provisions of section 119.07(1), F.S., and are only for the use of the program in fulfilling its duties. Any self-insurance trust fund and revenues generated by that fund shall only be used to pay claims and administration expenses.

Each self-insurance program council shall make provision for an annual financial audit pursuant to Section 11.45, F.S., of its accounts to be conducted by an independent certified public accountant. The annual audit report must include a management letter and shall be submitted to the Board of Governors and the university board of trustees for review. The Board of Governors shall have the authority to require and receive from the self-insurance program council or from its independent auditor any detail or supplemental data relative to the operation of the self-insurance program.

* **SOCIAL SECURITY NUMBERS:** [Subsections 119.071(4)(a), and (5)(a), F.S.](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=119.071&URL=0100-0199/0119/Sections/0119.071.html)

With limited exception, social security numbers held by an agency are confidential and exempt.

* **WHISTLE-BLOWER’S ACT INFORMATION:** [Section 112.3188, F.S.](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0112/Sections/0112.3188.html)

The name or identity of any individual[[4]](#footnote-4), who discloses in good faith to the Chief Inspector General or an agency inspector general[[5]](#footnote-5) the following information, is confidential with limited exceptions:

* Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of an agency or independent contractor which creates and presents a substantial and specific danger to the public’s health, safety, or welfare; or
* Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor.

Additionally, except as specifically authorized by section 112.3189, F.S., all information received by the Chief Inspector General or an agency inspector general is confidential and exempt if the information is being received or derived from allegations related to the disclosure of information as described above, and an investigation is active.

1. Some fees are prescribed by law, while other fees are authorized and may be charged. Such charges shall be reasonable, based on cost, and in compliance with statutory provisions. [↑](#footnote-ref-1)
2. For certain intentional violations concerning victim information [↑](#footnote-ref-2)
3. This includes correctional and correctional probation officers; and specified personnel of the Department of Children and Families, Department of Health, Department of Revenue, and local governments. [↑](#footnote-ref-3)
4. As described in section [112.3187](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0112/Sections/0112.3187.html)(7), F.S. [↑](#footnote-ref-4)
5. Board of Governors Regulation 4.002 requires that each university CAE be designated by their board of trustees as the employee to review statutory whistle-blower information and coordinate all activities of the university as required by the Whistle-blower’s Act. In this regard, they serve as an “agency inspector general” for the purposes of the Whistle-blower’s Act. [↑](#footnote-ref-5)