

Public Records Law Exemptions
(Confidential Records/Information)

Revised October 2014

The items listed below are some of the common exemptions to Florida's Public Records Law as found in the Florida Statutes and summarized in the most recent addition of the Florida Attorney General's Government-in-the-Sunshine Manual. All statutory references refer to the Florida Statutes. The specific statute reference is included and it is recommended that you read the entire section for the exact wording of the exemption.

All District employees are prohibited from including information relating to any of these exemptions in any school or department web page.

STUDENT RELATED EXEMPTIONS

- Personally identifiable educational records or reports of the student and any personal information contained therein (*FS § 1002.22 (2)* and *FS § 1002.221*). (Confidential and exempt) (*This would include student discipline records, student suspension and expulsion hearing records, records of challenging a student record, etc.).
- Cumulative records of public school pupils (*FS § 1003.25(1)*).
- Personally identifiable information about a student when not in educational records. (*FS § 1002.22* and *Johnson v. Deluz*, 875 So.2d 1 (Fla. 4th DCA 2004) (“Redact”)).
- Information identifying a Florida Kidcare applicant or enrollee held by specified agencies is confidential and exempt, and may be disclosed only as authorized in the exemption under (2) (*FS § 409.821*).
- Records of hearings on exceptional student placement or denial of placement in special education programs (*FS § 1003.57(1)(c)*).
- School districts and other agencies receiving information contained in student records and juvenile justice records shall use such information only for official purposes connected with the certification of students for admission to and for the administration of the dropout prevention and academic intervention program, and such agencies shall maintain the confidentiality of such information unless otherwise provided by law or rule. Such information is confidential and exempt (*FS § 1003.53(6)*).
- All examination and assessment instruments, including developmental materials and work papers directly related thereto, which are prepared, prescribed or administered pursuant to cited statutes, shall be confidential and exempt (*FS § 1008.23*).
- All birth records of Florida except those over 100 years old (*FS § 382.025(1)*).
- The Florida Education and Training Placement Information Program must not make public any information that could identify an individual or the individual's employer (*FS § 1008.39(3)*).
- Provisions in the school health services plan developed for maintenance of health records such as relating to incidents of health problems, corrective measures taken, of individual students (*FS § 381.0056(4)(a)(16)*).
- All blood banks shall be governed by the provisions of s. 381.004(3) relating to confidentiality of HIV test results and the identity of test subjects (*FS § 381.0041(9)*).

- Information used by interdisciplinary teams involved in decisions regarding the design and delivery of specified educational services to students residing in residential care facilities operated by the DCF (*FS § 402.22(3)*).
- Various specified law enforcement records, including active criminal intelligence information and active criminal investigation information such as: a request by law enforcement to inspect a public record & agency's response while its investigation is active (*FS § 119.071(2)(c)-(f) & (h)-(k)*).
- The individual records of children enrolled in the school readiness program provided under this part, held by an early learning coalition or the office, are confidential and exempt. For purposes of this section, records include assessment data, health data, records of teacher observations, and personal identifying information. (*FS § 1002.97(1)*).
- Except as otherwise provided in this section, all information obtained under this chapter (relating to juvenile justice) in the discharge of official duty by any of the entities set forth in the subsection is confidential and may be disclosed only to the entities specified in the subsection or upon court order. Agencies entering into an agreement to share information about juvenile offenders as authorized by this subsection must comply with s. 943.0525 and must maintain the confidentiality of information otherwise exempt (*FS § 985.04(1)*).
- DCF reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, the name of any person reporting child abuse, abandonment, or neglect, and all records and reports of the child protection team of the Department of Health. (*FS § 39.202(1), (5), & (6); 39.201(1)(b)*).
- Information received during the interview or from any other source regarding the alleged abuse or neglect of the child in a child protective investigation or a criminal investigation. (*FS § 39.301(18)(b)*).
- Regarding child abuse, abandonment, or neglect, all information obtained in the discharge of official duty by any judge, employee of the court, authorized agent of DCF, correctional probation officer, or law enforcement agent. (*FS § 39.0132(4)(A)1*).
- The addresses, corresponding telephone numbers, and social security numbers of program participants in the participants in the Address Confidentiality Program for Victims of Domestic Violence held by the participants in the Address Confidentiality Program for Victims of Domestic Violence held by the Office of the Attorney General or Supervisor of Elections and Department of State. (*FS § 741.465*).
- Information that would identify or locate a child or parent or guardian of a child who participates in a government-sponsored recreation program. This would include after-school programs, athletic programs, nature programs, summer camps, or other recreational programs. (*FS § 119.071(5)(c)(1)*).
- Social Security numbers held by the District. (*FS § 119.071(5)(a)5*).

PERSONNEL RELATED EXEMPTIONS

- Social security numbers of all current and former District employees (*FS § 119.071(4)(a)* and *FS § 119.071(5)(a)5*).
- Any complaint and any material relating to the investigation of a complaint against an employee shall be confidential and exempt from the provisions of s. 119.07(1) until the conclusion of the preliminary investigation or until such time as the preliminary investigation ceases to be active (*FS § 1012.31(3)(a)1*).
- Employee evaluations until the end of the school year immediately following the school year during which the evaluation was made, and all employee evaluations made prior to July 1, 1983 (*FS § 1012.31(3)(a)2*).
- Employee payroll deduction records (*FS § 1012.31(3)(a)4*).
- Records identifying individual participants in any contract or account relating to tax-sheltered annuities or custodial accounts and their personal account activities (*FS § 112.21(1)*).
- Records identifying individual participants in any deferred compensation plan and their personal account activities (*FS § 112.215(7)*).
- Bank account, debit, charge and credit card account numbers (*FS § 119.071(5)(b)*).
- Names and addresses of retirees in aggregate, compiled, or list form are confidential and exempt except to bargaining agent or a retiree organization for official business use (*FS § 121.031(5)*).
- Employee medical records, including psychiatric and psychological records, shall be confidential and exempt; however, at any hearing relative to the competency or performance of an employee, the administrative law judge, hearing officer, or panel shall have access to such records (*FS § 1012.31(3)(a)5*).
- Medical information pertaining to a prospective, current, or former Board member or District employee which, if disclosed, would identify that person, with specified exceptions (*FS § 119.071(4)(b)*).
- Employers shall maintain the confidentiality of information relating to the medical condition or status of any person covered by health or life insurance benefits provided or administered by the employer. Such information in the possession of a public employer is exempt (*FS § 760.50(5)*).
- Documents and inspection results produced pursuant to (*FS § 440.39(7)*) relating to investigation and prosecution of claims against third-party tortfeasors under worker's compensation laws (*FS § 440.39(7)*).
- Except as provided in (*FS § 440.102(8)*), all information, interviews, reports, statements, memoranda, and drug test results received or produced as a result of a drug-testing program are confidential and exempt (*FS § 440.102(8)*).
- Documentation of unsatisfactory explanation of positive drug test results of employees or job applicants and written explanation why the explanation is unsatisfactory (*FS § 440.102(5)(j)*).
- Medical records and reports of an injured employee and any information identifying an injured employee in medical bills provided to the Department of Financial Services pursuant to s. 440.13, are confidential and exempt, except as otherwise provided by this section and Ch. 440 (*FS § 440.125*).

- All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt. Additionally, Various specified law enforcement records, including active criminal intelligence information and active criminal investigation information, such as: a request by law enforcement to inspect a public record & agency's response while its investigation is active (*FS § 119.071(2)(c)-(f) & (h)-(j)*).
- The home addresses, telephone numbers, social security numbers, dates of birth, and photographs of active or former sworn or civilian law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt (*FS §119.071(4)(d)2a(I)*).
- The home addresses, telephone numbers, dates of birth, and photographs of 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 whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt (*FS § 119.071(4)(d)2f*).
- Home addresses, telephone numbers, social security numbers, and photographs of other specified persons, see (*FS § 119.071(4)(d)*).
- Claims files maintained by a risk-management program administered by the District, until termination of all litigation and settlement of all claims arising from the same incident, although some portions of the files may remain exempt (*FS § 768.28(16)(b)*).
- Examination questions, and their answers sheets, administered by a governmental agency for the purpose of licensure, certification or employment (although the person taking the exam may review his/her own completed exam) (*FS § 119.071(1)(a)*).
- Criminal or juvenile personnel background check information obtained under FS Ch. 435 for employment screening (*FS § 435.09*).
- The identity of a whistle-blower (and, if there is an investigation, other information received during the investigation while investigation is active, with specified exceptions) is confidential and exempt (*FS § 112.3188*).
- Information provided to an agency for purpose of forming ridesharing arrangements that reveals the identity of the individual (*FS § 119.071(5)(e)*).
- The complaint against a teacher or administrator and all information obtained during the preliminary investigation by the Department of Education, until the conclusion of the investigation or when the investigation ceases to be active, or until such time as otherwise provided by participation in a recovery network program (*FS § 1012.796(4)*).

- Information obtained under FS 1012.798(9) from an approved treatment provider relating to an employee's impairment and participation in a recovery network program (*FS § 1012.789(9)*).
- Complaints and other records which relate to a complaint of discrimination relating to race, color, religion, sex, national origin, age, handicap or marital status until a finding is made of probable cause, the investigation becomes inactive, or the complaint or other record is made part of the official record of any hearing or court proceeding (*FS § 119.0713(1)*).
- All complaints and other records 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 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. (*FS § 119.071 (2)(g)*).
- Biometric identification information, including fingerprints. (*FS § 119.071(5)(g)1*).
- DCF reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports, the name of any person reporting child abuse, abandonment, or neglect, and all records and reports of the child protection team of the Department of Health (*FS § 39.202(1)*).
- Information received during the interview or from any other source regarding the alleged abuse or neglect of the child in a child protective investigation or a criminal investigation. (*FS § 39.301(18)(b)*).
- Regarding child abuse, information received during the interview or from any other source regarding the alleged abuse or neglect of the child in a child protective investigation or a criminal investigation. (*FS § 39.301 (18)(b)*).
- The identity of a school or postsecondary educational institution, personal identifying information of any personnel of any school district or postsecondary educational institution, or any specific allegations of misconduct obtained or reported pursuant to an investigation conducted by the Department of Education of a testing impropriety are confidential and exempt (*FS § 1008.24(3)*).
- All birth records of Florida except those over 100 years old (*FS § 382.025(1) & (3)*).
- Personal identifying information of a dependent child of a current or former officer or employee of the School Board, which dependent child is insured by a School Board group insurance plan (*FS § 119.071(4)(b)2*).

PURCHASING RELATED EXEMPTIONS

- Sealed bids or proposals received pursuant to invitations to bid or requests for proposals until District provides notice of a decision or intended decision, or within 30 days after bid or proposal opening, whichever is earlier. (*FS § 119.071(1)(b)2*).
- If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt until such time as the agency 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 agency notice rejecting all bids, proposals, or replies. (*FS § 119.071(1)(b)3*).
- Any financial statement which the District requires a prospective bidder to submit in order to prequalify for bidding (*FS § 119.071(1)(c)*).
- Appraisals, offers, or counteroffers relating to a School Board's purchase of real property for educational purposes until an option contract is executed or if no option contract is executed, until 30 days before the Board considers a contract/agreement for approval. If the contract is not submitted to the Board for approval, the exemption expires 30 days after the termination of negotiations. (*FS § 1013.14(1)(a)*).

LEGAL AND AUDIT RELATED EXEMPTIONS

- Audit work papers and notes until audit is completed and the audit report becomes final (*FS § 119.0713(2)*).
- Opinion work product: a public record which was prepared by an agency attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the District and prepared exclusively for civil or criminal litigation or adversarial administrative proceedings or prepared in anticipation of imminent litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or proceedings. Note, to claim this exemption, the District shall identify the potential parties to any such criminal or civil litigation or adversarial administrative proceedings. (*FS § 119.071(1)(d)1*).
- Identity of donors and all information identifying donors and prospective donors of District direct-support organizations (*FS § 1001.453(4)*).
- All work products developed by the public employer in preparation for negotiations, and during negotiations, shall be confidential and exempt (*FS § 447.605(3)*).
- Social security numbers held by the District. (*FS § 119.071(5)(a) 5*).
- All trade secrets as defined in FS §§ 812.081(1)(c) or 688.002, Florida Statutes, whether or not they are stored on or transmitted by computers, are confidential and exempt when the owner of the trade secret has taken reasonable measures under the circumstances to maintain the information's secrecy. (*FS § 815.045 and Serpo Corp. v. Florida Dept. of Environmental Protection*, 839 So. 2d 781, 785-87 (Fla. 1st DCA 2003)).

SECURITY RELATED EXEMPTIONS

- Information relating to the security system plans (including records, information, photographs, diagrams, recommendations, etc.) for any property owned or leased to the District or information relating to the security system plans for any privately owned or leased property is confidential and exempt with specified exceptions (*FS § 119.071(3)(a)* and *FS § 281.301*).
- Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt (*FS § 119.071(3)(b)*).
- Data processing software obtained by the District under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software that is sensitive, although the designation of agency-produced software as sensitive shall not prohibit the School Board from sharing or exchanging such software with another public agency (*FS § 119.071(1)(f)*).
- Data, programs, or supporting documentation which is a trade secret which resides or exists internal or external to a computer, computer system, or computer network is confidential and exempt. (*FS § 815.04(3)(a)* and *§ 815.045*).

Section 812.081(1)(c), defines "Trade secret" to mean:

"the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. "Trade secret" includes any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes."[3] (e.s.)