

Subject: RE: Public Records Request (FL-GOV-22-0504)
Date: Friday, February 24, 2023 at 3:38:04 PM Eastern Standard Time
From: Desantis.OpenGovernment
To: AO Records
Attachments: image001.png

EXTERNAL SENDER

Good afternoon,

A search of the Executive Office of the Governor's files has produced documents responsive to your request as stated below. You may find your records on the Governor's website at the link provided below under "02-24-2023_Stoneman,_T._27_Responsive_Documents". Thank you for contacting the Executive Office of the Governor.

 [Public Records Requests](#)

Sincerely,
Office of Open Government

From: AO Records <records@americanoversight.org>
Sent: Monday, May 23, 2022 4:45 PM
To: Desantis.OpenGovernment <Desantis.OpenGov@eog.myflorida.com>
Subject: Public Records Request (FL-GOV-22-0504)

Dear Public Records Officer:

Please find attached a request for records under Florida's public records laws.

Sincerely,

--

Marwah Adhoob
Pronouns: she/her
Paralegal
American Oversight
records@americanoversight.org
www.americanoversight.org | @weareoversight

PRR: FL-GOV-22-0504

Please note that under Florida law correspondence sent to the Governor's Office, which is not confidential or exempt pursuant to chapter 119 of the Florida Statutes, is a public record made available upon request.

Public Records Overview

EXECUTIVE OFFICE OF GOVERNOR RON DESANTIS



Scope of Public Records Access

- Florida's Public Records Act (Chapter 119, Florida Statutes) provides a right of access to records of state and local governments as well as to private entities acting on their behalf.
- A right of access is also recognized in Article I, section 24 of the Florida Constitution, which applies to virtually all state and governmental entities including the legislative, executive, and judicial branches of government. The only exceptions are those established by law or by the Constitution.

What is a “Public Record?”

“Any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”

1. Any material, regardless of physical form
2. Made in connection with official business
3. Intended to communicate knowledge

Any material:

- Anything on paper (letters, memos, etc.)
- Emails
- Text messages
- Photos
- Films
- Tapes
- Electronic sound recordings
- Notice that it does not matter whether the material was created, sent, or received on a private or state-owned machine or account.

Electronic Records

- Electronic messages, including text messages, made or received by public officers or employees in connection with official business are public records and subject to disclosure in the absence of a statutory exemption.
- Facebook postings relating to official business are also included.
- It is the content and purpose of a communication, not the location of the record which determines its public records status.

Related to Official Business

- The record must relate to the employee’s “public responsibilities.”
 - In other words, does it have to do with your work assignments or things that could be assigned to you?
 - If yes, it is related to official business.
- Examples:
 - Texting your partner about working late is *not* related to official business.
 - Discussing your job on social media is *probably not* related to official business.
 - It might be if your job is to post on social media
 - Responding to an email from a lobbyist about a bill that is assigned to you would be related to official business.

Intended to Communicate Knowledge

- It takes two to tango.
- Examples:
 - Your personal notes are not intended to communicate knowledge.
 - Drafts are intended to communicate knowledge *only if* they have been shared with someone.
 - That draft Legislative Bill Analysis (“LBA”) you sent to your supervisor is intended to communicate knowledge.

Putting it All Together

“A public record . . . is any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”

That is, any material, regardless of physical form or means of transmission, made or received in connection with official business that is intended to perpetuate, communicate, or formalize knowledge of some type.

Providing Public Records

- All public records requests shall immediately be forwarded to Desantis.opengov@eog.myflorida.com
- Contact the Office of Open Government if you receive or have questions about a public records request.

Providing Public Records

- The Public Records Act does not contain a specific time limit (such as 24 hours or 10 days) for responding to public records requests.
- The Florida Supreme Court has stated that the only delay in producing records is the reasonable time allowed the custodian to retrieve the record and redact those portions of the record the custodian asserts are exempt.

Providing Public Records

- The Public Records Act requires no showing of purpose or "special interest" as a condition of access to public records. Unless authorized by another statute, an agency may not ask the requestor to produce identification as a condition to providing public records.
- An agency may not require that public records requests be in writing or require a form.

How Long Do I Have to Keep Public Records?

- The Florida Department of State determines how long to retain records.
- Most are found in General Records Schedule GS1-SL.
 - Definite terms of years
 - “Obsolete, superseded, or administrative value is lost” (OSA)

Retention of Public Records

Examples of records that must be kept for a year or more:

- Calendars
- Correspondence and memoranda: Administrative
 - Communications of a general nature associated with administrative practices or routine office activities and issues that do not create policy or procedure or document the business of a particular program
- Correspondence and memoranda: Program and Policy Development
 - Communications that document policy development, decision-making, or substantive programmatic issues, procedures, or activities

Retention of Public Records

Examples of records that must only be retained until they are OSA:

- Drafts and working papers
- Transitory messages
 - created primarily to communicate information of short-term value
 - includes reminders about scheduled meetings and announcements of office events such as holiday parties or group lunches
- Legislation records
 - document the development or review of legislation proposed by, and/or potentially impacting, an agency
 - includes proposed legislation; research materials on the subject of the legislation; agency staff analysis of the potential impact of the legislation; reports and statistical studies; surveys of and/or input from affected industries or populations; and other related records

Consequences for noncompliance

- Criminal penalties
- Suspension or removal from office
- Civil action
- Attorney's fees

Quiz

Are these public records?

Jane, an OPB employee, emails her spouse from her state email address saying that she will be late tonight because of budget briefings.

Answer

No. The content of the email was not made in connection with official business. *O'Boyle v. Town of Gulf Stream*, 257 So. 3d 1036, 1041 (Fla. 4th DCA 2018).

Quiz

Are these public records?

Kevin, an OPB employee, sends a text message with his personal phone to Joe, a lobbyist, discussing Joe's desire to float an amendment to a bill Kevin is assigned to follow.

Answer:

Yes. The text message qualifies as *any material*, and it is intended to communicate knowledge regarding a matter of official business. Kevin cannot keep the communication from being a public record by sending it on his personal phone. *O'Boyle*, 257 So. 3d. at 1040-41.

Quiz

Are these public records?

John, an OPB employee, is drafting an LBA for HB 10, a bill assigned to him. When the draft is in its early stages, before anyone else has seen it, a reporter makes a public records request for any public records OPB has on HB 10. Is John's draft LBA a public record?

Answer:

No. Because John has not shared the LBA with anyone, it is not yet intended to communicate knowledge.

Quiz

Are these public records?

- Jill, an OPB employee, took personal notes at a meeting she attended. John, having been so busy working on his LBA for HB 10, couldn't make it to the meeting. He asks Jill what transpired at the meeting, and she hands him her notes. Are Jill's notes a public record?

Answer:

- **Yes.** Though Jill's notes from the meeting were originally not public record, they became public record when she shared them with John.

Additional Resources

- Office of Attorney General Ashley Moody website: <http://www.myfloridalegal.com>
- Governor Ron DeSantis website. <http://www.flgov.com>

Good afternoon,

The Governor's Office of Open Government is in receipt of your request for records as stated in your email below. If there is a fee associated with your request, you will be provided with a fee estimate for your review. Thank you for contacting the Executive Office of the Governor.

Sincerely,

The Governor's Office of Open Government is in receipt of your request for records as stated in the attached. If there is a fee associated with your request, you will be provided with a fee estimate for your review. Thank you for contacting the Executive Office of the Governor.

Sincerely,

If they state a deadline add:

Please note: Our office begins processing requests in the order that they are received.

Dear American Oversight,

We are following up with you regarding your public records request submitted to this agency. Your request is attached.

Based on the breadth of the specific request, this office has identified in excess of ten thousand pages that may be responsive. These records may include documents containing information that is confidential and exempt from section 119.07(1), Florida Statutes, and section 24(a), article I of the Florida Constitution. For example, materials that were prepared by an agency attorney or prepared at the attorney's direction that reflect mental impressions, conclusions, litigation strategy, or legal theories of the attorney or agency prepared in anticipation of litigation are exempt from production pursuant to section 119.071(1)(d), Florida Statutes.

Consequently, your specific requests will require an extensive use of agency personnel and time, as well as information technology resources, to retrieve and review the documents responsive to your request and ensure compliance with the exemptions under section 119.071, Florida Statutes, and applicable law. Therefore, an initial labor deposit is being assessed pursuant to section 119.07(4)(d), Florida Statutes for 50 percent of the total cost estimate, at a total labor deposit of **\$1,914.97**.

Please note that we estimate these requests may require multiple hours or more of review at appropriate hourly rates. The actual hourly rate of the lowest hourly rate of the employee capable of performing the work needed to comply with these public records requests will be assessed against the initial labor charge.

Pursuant to Florida Public Records Act, section 119.07(4), Florida Statutes, please provide us with a check in the total amount of **\$1,914.97** made payable to Executive Office of the Governor and sent to my attention at 400 S Monroe Street, Suite 209, Tallahassee, FL 32399.

Upon receipt of the aforementioned check, this office will begin to review responsive records. Once the responsive records have been reviewed, this office will send you an additional invoice for the remainder of the cost required to produce the documents. Upon receipt of payment in full, we will forward to you the documents responsive to your request. Due to the scope of your public records request, we estimate that the production of these records will take an extensive amount of time to complete.

Please note that if this office does not receive a response within thirty (30) days from the date of this letter, we will close out your specific requests as non-responsive. Please do not hesitate to contact this office in the event that you would like to discuss your current request, or if you would like to narrow it in any fashion.

Sincerely,

Office of Open Government



Executive Office of Governor Ron DeSantis
Open Government Policy Manual
Effective Date: June 2022

Governor Ron DeSantis is committed to providing Floridians with access to information that allows citizens to hold government accountable. To provide full and expeditious compliance with Florida's public records laws, the Office of Open Government was created. This office coordinates and fulfills public records requests on behalf of the Executive Office of the Governor.

Public records are defined 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." ¹

Florida's Constitution² and public records laws³ provide a right to inspect or copy such records unless specifically exempted by the Constitution or by Florida statute.

Public Records Request Procedure

Public records may be requested by submitting an online request form, by emailing Desantis.opengov@eog.myflorida.com, or by calling the Office of Open Government at (850) 717- 9310. Requestors are not required to provide their identity or purpose for seeking the records.

We will acknowledge a new request as soon as practicable and may provide one or more of the following initial responses:

- A statement that the Office of Open Government is in receipt of the public records request
- A statement that the Office of Open Government is initiating a search for responsive records
- An inquiry to clarify the scope of the request when more information is necessary to initiate a search
- A statement that the Executive Office of the Governor does not have the requested records
- Referral to the proper custodian of the requested records

Publication of Public Records Requests

Responsive documents, if any, will be posted online at https://www.flgov.com/open_government/ upon completion of processing. This will enable easier and more expeditious access to public records, while lowering costs to the requesting party.

¹ Section 119.011(12), F.S.

² Article I, s. 24, Fla. Const.

³ Chapter 119, F.S.

Special Service Charge

A special service charge will continue to be imposed pursuant to section 119.07(4)(d), Florida Statutes, if the nature or volume of the requested public records requires extensive use of information technology resources and/or extensive clerical or supervisory assistance by agency personnel. This charge will be separate and in addition to actual duplication and material costs.

- a. A special service charge will be warranted if the nature or volume of the requested records to be inspected or copied requires more than 30 minutes of agency resources.
- b. Clerical or supervisory assistance includes searching for and/or locating the requested record, reviewing records for legally exempt or confidential information, withholding or redaction of such exempt or confidential information, and preparing, copying, and re-filing of the requested records.
- c. If multiple agency divisions are involved, the special service charge will be based on the aggregate amount of time expended by all personnel and information technology resources when applicable.
- d. The rate of the special service charge will be determined based on the rate of hourly salary plus benefits of the employee(s) reviewing responsive documents.

Cost Estimate and Payment

Upon receiving requests for public records, the Office of Open Government will provide an itemized cost estimate to the person initiating the request. The estimate will include the hours required, the estimated service charge for extensive labor, and actual duplicating or other material costs. If upon receipt of an initial estimate of charges, a request is changed or otherwise limited in scope (limiting individuals or agency divisions, for example), the person initiating the request will be provided with a new estimate of charges.

Requestors are required to pay 50 percent of the initial cost estimate before review and redaction begin. Once review and redaction are completed, the requestor will be notified and provided with a cost invoice. The requestor will be required to pay the cost invoice. Once payment in full is received, responsive documents will be released.

Reducing Costs and Limiting Charges

Labor costs can be reduced significantly if requests include keywords instead of open-ended terms such as "all documents or emails." Similarly, narrowing a request to certain individuals or a particular date range can greatly reduce the use of extensive labor.

Many easily accessible records are already available online for no charge. The Office of Open Government will continue to add documents and information as we identify some of the most frequently requested public records and will help direct requestors to free online sources whenever possible.

Non-Responsive Requestors

If a requesting party fails to respond to inquiries for clarification, cost estimates, or any other communication from the Office of Open Government for 30 calendar days, the request will be closed.

Good morning,

Governor Ron DeSantis' Office of Open Government received your request for records, a copy of which is below for your reference. However, the Governor's Office is not the custodian of these records. Thank you for contacting the Executive Office of the Governor.

Sincerely,

Office of Open Government

Template 1:

Good afternoon,

Our search resulted in over 1,200 items.

The records responsive to our initial search may include documents containing information that is confidential and exempt from section 119.07(1), Florida Statutes, and section 24(a), article I of the Florida Constitution. For example, materials that were prepared by an agency attorney or prepared at the attorney's direction that reflect mental impressions, conclusions, litigation strategy, or legal theories of the attorney or agency prepared in anticipation of litigation are exempt from production pursuant to section 119.071(1)(d), Florida Statutes.

Consequently, your specific requests will require an extensive use of agency personnel and time, as well as information technology resources, to retrieve and review the documents responsive to your requests and ensure compliance with the exemptions under section 119.071, Florida Statutes, and applicable law. Under Florida Law, because the Public Records Act requires a records custodian to determine whether the requested records exist, locate the records, and review each record to determine if any of those records are exempt from production, an agency may charge a special service charge as authorized under s. 119.071(4)(d), F.S. for the cost to review voluminous requested records for exempt material.

Please advise if you would like to narrow the scope of your request or if you would like a cost estimate.

Sincerely,
Office of Open Government

Template 2:

Good afternoon,

The Governor's Office of Open Government has initiated a search for records responsive to your request, a copy of which is below.

Our initial search has found over 250 items potentially responsive to your request. An item identifies an email, attachment, meeting invitation, etc., and each item could result in multiple pages. All responsive pages require review for exempt and/or confidential information.

The Executive Office of the Governor is committed to public transparency and compliance with Florida's Sunshine laws, and we will work to process your request as quickly as possible. As you may know, complex or laborious requests that may require significant staff review or materials costs are subject to service charges.

Please let us know if you would like to limit the scope of your request. Please note, if we do not hear from you within 30 days, our office will consider your request closed. Should that occur, you would be welcome to re-submit your request at any time.

Sincerely,
Open Government

Good morning,

The Governor's Office of Open Government received your request, a copy of which is below for your reference. A search of the Executive Office of the Governor's files produced no documents responsive to your request.

Sincerely,
Office of Open Government

Hello,

The Governor's Office of Open Government received your request for emails sent by Gov. Ron DeSantis & Lt. Gov. Jeanette Nunez along with any attachments. Including emails where Gov & Lt. Gov were CC'd or BCC'd during the same time frame of 12/12/2021-1/7/2022 along with any attachments. A search of the Executive Office of the Governor's files produced no documents responsive to your request.

Sincerely,

Liam E. Connell
Office of Open Government
Executive Office of the Governor

July 21, 2022

[REDACTED] (Death Row Cell # [REDACTED])
Florida Department of Corrections
P.O. Box #800
Raiford, FL 32083

Re: Public Records Request

Dear Requestor:

Governor Ron DeSantis' Office of Open Government received your request for records, a copy of which is enclosed for your reference.

A search of the Executive Office of the Governor's files produced no documents responsive to your request. Please feel free to contact the Office of Open Government if you have any questions or concerns.

Sincerely,

Christopher DeLorenz
Office of Open Government
Executive Office of the Governor

Enclosure



RON DESANTIS
GOVERNOR

STATE OF FLORIDA
Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

www.flgov.com
850-717-9418

May 18, 2022

[REDACTED]
Jefferson Correctional Institution
1050 Big Joe Road
Monticello, FL 32344

Re: Public Records Request

Dear [REDACTED]:

Governor Ron DeSantis's Office of Open Government received your request for records, a copy of which is enclosed for your reference. However, The Governor's Office is not the custodian of these records. Thank you for contacting the Executive Office of the Governor.

Sincerely,

Liam Connell
Office of Open Government
Executive Office of the Governor

July 25, 2022

[REDACTED]
Charlotte County Jail
26601 Airport Road
Punta Gorda, FL 33982

Dear [REDACTED],

A search of the Executive Office of the Governor's files has produced documents responsive to your request you placed in the mail.

You may find your records enclosed per your instructions. The Governor's Office is not the custodian of any of the other documents that you requested. Thank you for contacting the Executive Office of the Governor.

Sincerely,

Christopher DeLorenz
Office of Open Government
Executive Office of the Governor

Good afternoon,

A search of the Executive Office of the Governor's files has produced documents responsive to your request as stated below. You may find your records on the Governor's website at the link provided below under "05-21-2021_blank_00-G_Responsive_Documents". Thank you for contacting the Executive Office of the Governor.

[https://fleog.sharepoint.com/\[REDACTED\]](https://fleog.sharepoint.com/[REDACTED])

Sincerely,

If multiple requests are linked:

Good afternoon,

A search of the Executive Office of the Governor's files has produced 3 pages responsive to your request as stated in the attached. You may find your records on the Governor's website at the link provided below under "08-22-2020_blank_00-G_Responsive_Documents". For your information, as we had multiple requestors asking for the same document, all responsive documents have been saved under one requestor's name.

Thank you for contacting the Executive Office of the Governor.

[https://fleog.sharepoint.com/\[REDACTED\]](https://fleog.sharepoint.com/[REDACTED])

Sincerely,

Directions to Access Records:

1. Visit www.flgov.com
2. Click on the "Info Center" tab
3. Select "Open Government"
4. Select "Review Released Records"
5. Click on "2020"
6. Click on "MONTH"
7. Your records are located under "REQUEST CODE"

Releasing broad COVID request

