

**Clerk of the Circuit Court
Collier County, Florida**

Public Records Policy

Dwight E. Brock, Clerk of the Circuit Court

June 11, 2015

Overview

Role of the Clerk:

“The Clerk of the Circuit Court shall be Ex-Officio Clerk of the Board of County Commissioners, Auditor, Recorder and Custodian of all County funds.”

The Constitution of the State of Florida Article VIII, Section 1(d)

As the custodian of records, the Clerk of Circuit Court in Collier County, Florida is committed to the public's right to access records under Florida law, namely Florida Statutes 28.24, and 119 as well as the Florida Supreme Court's Rules of Judicial Administration 2.420. The policies and procedures outlined in this document are intended to be applied consistently across the Clerk's agency in response to public records requests.

Public Record Defined - Any document or paper or electronic media, regardless of physical form, characteristic or means of transmission, including electronic mail, made or received in connection with official Clerk business are public records. This includes all calendars, notes and correspondence, including email correspondence, if the item is related to clerk business.

Florida Laws Governing Access to Public Records:

Public Records - Records maintained by the Clerk which relate to the Board of County Commissioners are public records and access is governed by Florida Statute 119.

Court Records - When the Clerk is acting in support of the judiciary, access to court records is governed exclusively by Florida Rules of Judicial Administration 2.420.

Official Records - Pursuant to Florida Statute 28.222, the Clerk is the recorder of all instruments that may be required, or authorized by law, to record in the county, and are commonly referred to as official records. All official records are public records, but not all public records are official records.

Requests for Public Records as defined by Florida Statute 119 include all non-court and non-official records.

POLICY:

It is the policy of the state of Florida that all state, county, and municipal records are open for personal inspection and copying by any person, unless exempted by law. Providing access to public records is a duty of each agency.

All records are presumed open unless there is an applicable exemption. In the absence of an exemption, a custodian must produce the records requested regardless of the number of records involved or possible inconvenience.

If a staff member of the Clerk's office asserts that all, or part, of a record is exempt from inspection and copying, they must provide the authority authorizing denial of access to the request.

A person requesting access to, or copies of, public records is not required to disclose his or her name, address, telephone number or the like to the custodian, unless the custodian is required by law to obtain this information prior to releasing the records.

Chapter 119, F.S., does not authorize an agency to require that requests for records be in writing. The person requesting the records cannot be required to provide such documentation as a precondition to the granting of the request to inspect or copy public records, unless specifically required by law.

The requestor is not required to explain the purpose or reason for public records requests.

When a public records request is received by telephone, fax, mail, or e-mail, the Clerk's staff must immediately acknowledge that the request was received, document the date it was received and proceed to make a good faith effort to fulfill the request in a reasonable amount of time.

Every person who has custody of a public record must permit the record to be inspected and/or copied by any person desiring to do so, at a mutually convenient time, under reasonable conditions, and under the supervision of the custodian of the public records.

The agency must provide a copy of a record in the medium requested if the agency maintains the record in that medium and may charge a fee for such copy. Florida law does not require an agency to compile reports from records in a medium not routinely maintained by that agency.

Florida public records law requires agencies to provide access to existing public records; it does not require that agencies create records or provide interpretation of the records being requested.

Clerk staff should provide a requestor with access/copies only to records maintained by the Clerk's agency.

If the nature or volume of the public records requested to be inspected or copied requires the use of more than 15 minutes of information technology resources and/or clerical or supervisory assistance by Clerk personnel, an extensive use service charge based upon the cost incurred will be charged to the requestor.

The service charge will be based on the cost actually incurred by the agency as that is defined by law, for such extensive use of information technology resources or personnel. The special service charge applies to requests for both inspection and copies of public records.

If a record contains both exempt (such as social security numbers, bank, debit, and/or credit account numbers) and non-exempt information, the records custodian must redact that which is exempt and provide access to the remainder.

If a record or a portion thereof is exempt from public view, the custodian of the record must provide the requestor with the authority which exempts the record or portion thereof from public view.

In the review and redaction process for exempt information, the Clerk's staff may not alter, remove or destroy any original paper or electronic document.

If requested records are readily available, the Clerk's staff may provide access to, or copies of, the record(s) to the requestor. If there is a charge associated with the request, staff should advise the requestor that there is a fee for the records.

If records are requested, staff should provide the requestor with an acknowledgement of their records request and advise them that the request will be fulfilled in a reasonable period of time.

If a request is insufficient to identify the records being sought, the department holding the records will help clarify the request, and, when necessary, assist in fulfilling the request.

Public records requests will be handled in the order in which they are received and fulfilled within the normal course of business.

Public records requests require payment by cash or check to the Clerk of Courts. Advance payment before producing the records may be required. Payment in full is due prior to releasing public records requests.

If copies are to be mailed to a requestor, the fees/charges applicable should be collected prior to packing and/or mailing, including postage costs.

For “Extensive Use” Requests:

The extensive use policy and procedure is in accordance with Florida Statute 119.07(4)(d) for the purpose of recovering costs incurred for extensive use of information technology resources and/or clerical or supervisory assistance as allowed by Florida law.

The extensive use charge will be computed to the nearest quarter hour exceeding the first 15 minutes based upon the labor and overhead cost of the person required to perform the service.

If the actual cost exceeds the monies deposited, the requestor will be required to pay the difference before the request will be fulfilled and copies of the records released.

A deposit payment may be required prior to researching or fulfilling the request if the estimated time required exceeds 15 minutes.

The Clerk is entitled to receive payment for the entire amount of the value of services.

If a requestor does not collect documents or advises the Clerk that the documents are no longer needed, the Clerk will retain any deposit received for expended services related to the records request, and will pursue full compensation as provided by law.

The Clerk's office will bill the requestor for the difference between the deposit and the actual cost if full payment was not initially received.

Departmental Responsibilities:

Each public record or document provided must be examined for accuracy, completeness and to ensure that all exempt information is redacted before delivering to the requestor. All records must be approved by the appropriate Department Director, or designee, before being released.

The Official Records, Board Minutes and Records and Court Departments will answer records requests related exclusively to their respective departments. The Directors of each department are hereby delegated as the custodian of records of their respective departments.

Clerk's Administration, MIS, Human Resources and Finance including Internal Audit, will answer records requests related to their respective departments.

The Director of each department is hereby delegated as custodian of records of these departments with the exception of Clerk's Administration. The Community Outreach Director or designee is hereby delegated the custodian of Clerk's Administration records.

Checks are to be made payable to the Clerk of Courts, Collier County and mailed to the address below or payments can made by cash in the Finance Department on the 7th Floor of the Administration Building at 3299 Tamiami E. Naples, FL 34112.

Mailing address:

Collier County Clerk of Courts
Clerk's Accounting Ste. 701
P.O. Box 413044
Naples, FL 34101-3044

