

# Early Learning Coalition of Florida's Gateway, Inc.

## Office Policies & Procedures

**Title: Request for Public Records Policy & Procedure**

**ELCFG 2017.1**

### **1.0 POLICY:**

It is the policy of the Early Learning Coalition of Florida's Gateway that all employees will comply with Florida's public records law and state retention schedules for public records, including electronic mail (e-mail). Florida's public records law, listed in Chapter 119, Florida Statutes, states: "It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency."

### **2.0 PROCEDURES:**

**2.1 Requirement to Maintain Public Records:** No public records may be mutilated, destroyed, sold, recycled, loaned or otherwise disposed of without the approval of the Early Learning Coalition of Florida's Gateway.

#### **2.2 What Is A Public Record:**

2.2.1 Public records are all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other materials, regardless of physical form, or characteristics, or means of transmission, made or received by the Coalition.

2.2.2 The Florida Supreme Court interprets the definition of public records very broadly to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge.

a. Personnel records are open to inspection unless exempted by law. This includes applications, resumes, third-party communications (e.g., references), salary information, grievance records, and travel vouchers. The courts have rejected claims that release constitutes an invasion of the employee's privacy. Those items which are deemed confidential are redacted and the document is released.

b. There is no "unfinished business" exceptions to public records inspection and copying requirements. Any agency document circulated for review, comment, or information (including memoranda, drafts, or proposals) is a public record regardless of whether it is marked "preliminary" or "working draft". A non-final document need not be communicated to anyone in order to constitute a public record; your "personal" notes are public records if they perpetuate or formalize knowledge of some type.

c. Section 119.01 notes that "...automation of public records must not erode the right of access to those records." One Florida court has held that "information stored in a computer is as much a public record as a written page in a book or a tabulation in a file stored in a filing cabinet." In answering a question as to whether e-mail messages are public records, a recent attorney general opinion states: "...the fact that information made or received... in connection with official business is electronically made or received would not

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appear to alter its character as a public record..." Therefore, all materials, regardless of form, are open for public inspection unless the legislature has specifically exempted them from disclosure.

### 2.2.3 Exemptions to the Public Records Law:

- a. State and federal law exempts certain categories of documents from disclosure under the public records law. The exemptions recognized by Florida law are found in s.119.07, Florida Statutes. The exemptions which apply most often to Coalition records include client specific information. Some other exemptions include, but are not limited to: Social security numbers contained in employment records, home addresses and telephone numbers, photographs, and family information of certain personnel, medical information (except with written permission), reports of abuse of children, and materials generated as a result of the report documents prepared for collective bargaining negotiations Records identifying participants in annuity or custodial accounts, or deferred compensation plans Drug test results Employee assistance program records Internal investigations, whistle-blower investigations, or discrimination complaints (until investigation is completed and a finding made) Examination questions and answer sheets for the purpose of licensure, certification, or employment (except an individual may review, but not copy, the individual's own exam questions and answers) Ridesharing information Data processing software (under licensing agreement or, if produced by the agency, "sensitive") Sealed bids or proposals (until notice of a decision or no later than 10 days from opening)
- b. Records of children in the school readiness program held by an Early Learning Coalition or the Office of Early Learning are confidential and exempt from statute 119.07 and s. 24 (a), Art. I of the State Constitution per Florida Statute 1002.97.
- c. Before any document is released pursuant to a public records request, any exempt information must be redacted or deleted. If there is any doubt as to whether a record is exempt, refer to section 119.07 FS.

**2.3 Who May Request A Public Record:** Section 119.01(1), Florida Statutes, declares: "[i]t is the policy of this state that all... state records shall be open for personal inspection by any person" (emphasis added). Reporters, attorneys, union representatives, public employees, and other citizens all have the same right of access to public records. A person need not give a reason for making a public records request and need not have a "legitimate" reason to access a public record.

**2.4 Procedure for Responding to Requests:** Requests may be made in writing or orally. The requester shall be encouraged, but not required, to complete the Public Records Request Form, if applicable. All public records requests should be referred to the Executive Branch of the Coalition. The Executive Branch will forward the request to the appropriate department for gathering the requested documents and then either arranging a time for inspection of the documents or making copies available to the requester. Documents, including e-mail, that do not fall within the definition of a public record need not be produced. Records, in whatever form, which are public records but contain exempt information must be produced, but the

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exempt information must first be deleted or redacted. If in doubt as to whether a document or e-mail message is a public record or contains exempt information, the Executive Director should seek legal assistance.

**2.5 Availability of Records:** Public records will be available for inspection or copying during reasonable times and under reasonable conditions between 8:00 a.m. and 5:00 p.m., Monday through Thursday and 8:00 a.m. until noon on Friday, excluding published Coalition holidays. Public records which are exempt from the provisions of section 119.07(1), F.S. will be available only as specified by applicable state and federal laws and rules.

**2.6 Charges for providing copies of Coalition records or publications:** This operating procedure prescribes the procedures for the assessment and collection of fees when providing a copy of a public record to a client or the general public. This operating procedure does not apply to copies of records for which fees have been established or waived by state or federal law or existing negotiated contracts.

**2.6.1 Fees for providing copies:**

When providing a copy of a public record to a client or the general public, the fee which may be charged is the fee prescribed by law or, if not prescribed by law, the fee is:

a. 15 cents per one- or two-sided copy for photocopies no larger than 14 inches by 8 ½ inches.

b. The actual cost of duplicating the requested material for copies larger than 14 inches by 8 1/2 inches, or the actual cost of duplicating the requested material for copies (regardless of size) which are duplicated by some means other than photocopying.

2.6.2 The cost of mailing or shipping the requested material may also be added to the fee for duplicating the requested material, if the requester asks that the material be delivered (instead of the requester, or representative, picking up the material in person).

2.6.3 The "actual cost of duplicating" means the cost of the goods and supplies used to duplicate the requested material, but does not include the labor cost or overhead cost associated with such duplication.

2.6.4 A special service charge (if applicable pursuant to section 119.07(1)(b), F.S.) may be added to the fee for duplicating the requested material. A special service charge for "extensive assistance by Coalition staff" may not be assessed unless Coalition staff spend at least 15 minutes to retrieve, copy and re-file, or redact (if applicable) the requested material. Upon request, documentation supporting the assessment of the charge will be provided to the requestor. When applied the special service charge is \$5.00 per 15-minute increment, which does not include the page costs detailed in paragraph 2.6.1.

2.6.5 No sales tax may be added to the cost of providing requested material.

2.6.6 Unless prescribed by law, no fee may be charged if the cost of providing the material is less than \$3.00, including mailing or shipping costs and special service charge (if applicable).

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2.6.7 **Copies Provided Without Charge.** Unless prescribed by law, no fee may be charged for providing copies as follows:

i. Administrative Publication

a. City, county, state or federal government agencies and elected or appointed government officials will be provided free as many copies as required.

b. Providers under contract to the Coalition to provide services to clients will be provided free of charge one complete copy of any administrative publication(s) addressing those services or addressing the providers' contractual obligations.

ii. Client Records. Copies of confidential records will be provided only to those individuals or agencies as specified by law.

a. City, county, state or federal government agencies and elected or appointed government officials, as specified by law, will be provided one complete free copy.

b. A client or the client's attorney or representative, as specified by law, will be provided, upon request and at no charge, one copy of the client's record. If the client receives one free copy, the client's attorney or representative is not entitled to another free copy.

2.6.8 **Media Other Than Hardcopy.** Media other than hardcopy may consist of microfilm, microfiche, photographs, slides, films, tapes, and videotapes. The fee which may be assessed for providing media other than hardcopy will be based upon the actual cost to the Coalition for producing the media. (If applicable, a special service charge may be added.)

2.6.9 **Computer Generated Information.** The fee for providing information which is already contained in a computer-generated report will be based upon the actual cost to the Coalition for providing the report. The fee for providing information which requires the use of the computer to generate the requested information will be based upon:

a. The labor cost of the employees who write programs and operate the computer and its peripheral equipment to generate the requested information.

b. The fee schedule by which the Coalition is charged for using other agencies' or organizations' computer systems.

2.6.10 In addition to the fees described above, an additional charge of \$1.00 per page may be assessed if the requester requests a certified copy of a public record.

## 2.7 Payment of Fees

2.7.1 Fees are payable by cashier's check, money order, or personal check and must be collected prior to delivery of the requested material. Checks and money orders must be made payable to the Early Learning Coalition of Florida's Gateway, Inc.

2.7.2 **Processing Collected Fees.** Fees received will be sent to the Coalition's Fiscal Agent. Upon receipt, the payment will be deposited by the fiscal agent into the appropriate miscellaneous income account.

2.7.3 **Requests for Total Records.** Requests for copies of a complete file or record should be examined closely in order to minimize costs to the requester. The Executive Director should suggest that the requester review the file or record and select only useful information for photocopying. A requester still wanting photocopies of a

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complete file or record will be provided copies with fees assessed as stated above. Ensure that "confidential" information is excluded from a file or record that otherwise is open for inspection.

### **3.0 RECORDS RETENTION:**

All records will be retained for five years in accordance with the Coalition's policy.

### **4.0 ATTACHMENTS:** Public Records Request Form, ELCFG 2017.1A

#### **Document Revisions**

<i>Revision Date</i>	<i>Change Description</i>
<i>2004</i>	<i>Original Motion by Sheryll Walker, Seconded by John Pierce</i>
<i>May 17, 2017</i>	<i>Revision to incorporate reference to Chapter 119, and fees to copy, and make standalone policy</i>