

Georgia Open Records Act

Compliance Training

The Basics

Presumption that **all** records are public.

Each department is the custodian of its own records.

Requires that records be made available upon request unless subject to a specific exemption.

Requires a **substantive** response within 3 business days.

Permits withholding of limited and specific categories of information where nondisclosure is in the public interest.

Civil and criminal penalties for non-compliance.

What Is a Public Record?

All records within the custody of the City are presumed to be public records.

Even if the records are stored offsite or by a private entity like Iron Mountain.

Every medium in which information is stored and can be reproduced.

Includes emails, text messages, and social media posts related to official City business whether on an official or personal device.

Draft documents ARE a public record.

Making a Request

Anyone can make a request, including a City employee.

We do not care WHY records are being requested.

Any request for access to records should be treated as a GORA request.

A requester does not have to specifically mention the Open Records Act.

A request can be made orally (in person, by phone) or in writing (fax, email, letter).

Estimate of Costs

Copy Charge = **\$0.10 per standard size page** or actual cost for other items (CDrom, oversized pages).

No copying charge for electronic records.

Administrative Fees = prorated hourly salary of the lowest paid full-time employee with the necessary skill and training.

If costs are estimated to exceed \$500, a custodian can require advance payment before beginning to comply.

The Three Day Rule

Within **3 business days** of the receipt of a request, a custodian must respond to a requester with **all** of the following:

- Access to all available records or a description + timetable of availability for records that are not immediately available.
- Estimate of costs. A custodian may defer gathering records until requester has agreed to incur the fees.
- Inform the requester if the recipient of the request is not the custodian of the requested records or if the records do not exist.
- Provide a specific citation of any applicable exemptions if known.

City of Atlanta Open Records Compliance Policy

Effective October 1, 2019.

Applies to all employees and elected officials.

Creates standard operating procedures for compliance with the law.

Use of private emails to conduct City business is strongly discouraged.

Use of private cell phones, messaging apps, computers to conduct City business is not preferred.

Employees assume the risk of retaining records and complying with the law to provide access to records on personal devices.

Disciplinary action up to and including termination for non-compliance with the policy.

Emails and Text Messages

All emails and texts related to official City business are public records subject to production, even on a home computer or personal device.

All personal emails and texts on a City computer or other City device are public records subject to production.

“City business” can be anything related to your City position or responsibilities.

Recommendations for Emails and Texts

Do not “cross contaminate” your official and personal devices.

Be mindful that you are creating a public record.

Avoid creating a record unless necessary when confidentiality is a concern.

Abandon the “Reply All” button.

Use extreme caution when forwarding emails from City Law Department attorneys, even internally.

Waiver of Attorney-Client Privilege

Protects communications requesting and receiving of legal advice by a client from her/his attorney.

The client holds the privilege and can waive it.

Inadvertent disclosure of attorney-client privileged communications can waive the privilege permanently.

Use extreme caution when providing records related to the City Law Department or any legal matter.

Penalties for Non-Compliance

Both the Superior Court and the State Attorney General have jurisdiction to enforce compliance and to seek civil or criminal penalties, or both.

Failure or refusal to provide access to public records or intentionally making them difficult to obtain in violation of the Act is a **misdemeanor criminal violation**.

Criminal penalties can be assessed for knowingly and willfully violating the Acts.

Civil penalties can be assessed for negligently violating the Acts.

Up to **\$1,000** fine for a first violation, up to **\$2,500** fine for each subsequent violation.