



FAQs: ACCESSING SCHOOL RECORDS AND ATTENDING SCHOOL BOARD MEETINGS IN GEORGIA

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School records can be divided into three categories: student information, personnel records and administration records. Some types of records are unconditionally available, while others may be redacted based on confidentiality concerns. Rights and limitations to access of educational information are codified in federal and state laws and local school policies.

Note that this guide addresses accessing school records as a non-parent requester. Parents have a broader right of access to information about their children.

1. What types of student records are available?

The federal Family Educational Rights and Privacy Act (FERPA) protects students' personally identifiable information, such as a student's name, address or the names of their family members.¹ FERPA restrictions apply when a person seeks educational records under Georgia's Open Records Act (ORA).²

The following information is generally accessible to the public under FERPA and ORA:

1. school directory information,³
2. student information created after the student leaves the institution,⁴
3. student employment records,⁵
4. the aggregate test scores of K-12 students,⁶ and
5. law enforcement records.⁷

¹ 20 U.S.C.A. § 1232g; 34 C.F.R. § 99.3.

² O.C.G.A. § 50-18-72(a)(37) (Exempting "[a]ny record that would not be subject to disclosure, or the disclosure of which would jeopardize the receipt of federal funds under 20 U.S.C. Section 1232g or its implementing regulations.").

³ 20 U.S.C. § 1232(g)(a)(5)(A); 34 CFR § 99.3.

⁴ 34 C.F.R. § 99.3.

⁵ *Id.*

⁶ O.C.G.A. § 20-2-281(o).

⁷ 20 U.S.C. § 1232g(b)(3), (b)(5); 34 C.F.R. § 99.3.

FERPA requires the school to obtain the consent of a parent (or a student past the age of 18) before it discloses specific “educational information,” defined as relating directly to a student and maintained by an educational agency or institution or by a party acting for the agency or institution.⁸ Information within this limited-access category includes, for example:

1. medical and/or psychological records,⁹
2. academic performance records,¹⁰
3. admissions records,¹¹
4. letters of recommendation,¹² and
5. student disciplinary records (but records that do not contain personally identifiable information are public).¹³

2. What types of school personnel/staffing records are available?

Records of public school teachers and other school employees are accessible.¹⁴ Certain information must be redacted prior to release, including Social Security numbers, mother’s birth name, employee’s birth date, any insurance or medical information, home address and phone number, and any financial data or banking information.¹⁵

Subject to those redactions, the following records may be disclosed:

1. applications for employment,¹⁶
2. background investigations,¹⁷
3. certificates of training,¹⁸
4. commendations,¹⁹
5. criminal history background checks incorporated into a personnel file,²⁰
6. driver’s license information incorporated into a personnel file,²¹
7. salary and other compensation,²²
8. some evaluations,²³

⁸ 34 C.F.R. § 99.3.

⁹ *Id.*

¹⁰ 20 U.S.C. § 1232g(a)(4)(B)(i).

¹¹ Steven N. Schatken, *Student Records at Institutions of Postsecondary Education: Selected Issues under the Family Educational Rights and Privacy Act of 1974*, 4 Journal of College and Univ. Law 430 (1977).

¹² *Id.*

¹³ *United States v. Miami Univ.*, 294 F.3d 797 (6th Cir. 2002).

¹⁴ See *Hackworth v. Board of Education*, 214 Ga. App. 17, 447 S.E.2d 78 (1994); 1965- 66 Op. Atty. Gen. No. 66-88.

¹⁵ O.C.G.A. § 50-18-72(a) (20)(A).

¹⁶ O.C.G.A. §§ 50-18-72(a)(11).

¹⁷ O.C.G.A. §§ 35-3-34 (a)(1)(A).

¹⁸ O.C.G.A. §§ 50-18-72(a)(11), 50-18-72(13).

¹⁹ O.C.G.A. §50-18.

²⁰ O.C.G.A. §§ 35-3-34 (a)(1)(A), 35-3-34(d.1); *Napper v. Georgia Television*, 257 Ga. 156 (1987).

²¹ *Napper v. Georgia Television*, 257 Ga. 156 (1987).

²² O.C.G.A. § 50-18-72(a)(11).

²³ O.C.G.A. § 20-2-210.

9. reprimands or adverse personnel actions,²⁴ and
10. training records.²⁵

3. What types of school administration records are available?

The Georgia Open Records Act provides broad access to school administration records. The following records are subject to disclosure:

1. school board records and minutes detailing all official proceedings,²⁶
2. all Board of Regents records,²⁷
3. university president or school superintendent search records,²⁸ and
4. university-related foundation records, excluding donor lists.²⁹

4. What are the guidelines surrounding educational data collection and retention?

Georgia's Student Privacy, Accessibility and Transparency Act gives parents rights to review their child's education records and requires schools to provide electronic copies of a student's records to their parents upon request.³⁰ The act requires the Georgia Department of Education to keep a public data inventory and dictionary/index of data elements that relate to the data that the state collects about students, along with an explanation as to why that data is being collected.³¹ It also requires the state's data retention system to develop a data security plan.³² Technology providers working with schools must develop appropriate security procedures and are prohibited from selling students' personal information or using it for targeted advertising.³³

Under the Act, the Georgia Department of Education is required to notify the governor and the Legislature if it seeks to add data elements to the scope of student data collection or alter the process for collecting and/or reporting on students' personally identifiable data.³⁴ The department must also conduct a 60-day public comment or review period before making such changes to student data collection.³⁵

²⁴ O.C.G.A. §§ 50-18-72(a)(11), 50-18-72(13).

²⁵ O.C.G.A. §§ 50-18-72(a)(11), 50-18-72(13).

²⁶ O.C.G.A. § 20-2-57(a) (elementary and secondary); *see also Hackworth v. Board of Education*, 214 Ga. App. 17, 447 S.E.2d 78 (1994).

²⁷ *See Board of Regents v. Atlanta Journal*, 259 Ga. 214, 278 S.E.2d 305 (1989).

²⁸ O.C.G.A. § 50-18-72(a)(7); *Board of Regents v. Atlanta Journal*, 261 Ga. 350, 405 S.E.2d 43 (1991).

²⁹ *See Dooley v. Davidson*, 260 Ga. 577, 397 S.E.2d 922 (1990); *Macon Telegraph Publishing Co. v. Bd. of Regents*, 256 Ga. 443, 350 S.E.2d 23 (1986).

³⁰ O.C.G.A. § 20-2-667.

³¹ O.C.G.A. § 20-2-664(1).

³² O.C.G.A. § 20-2-664(4).

³³ O.C.G.A. § 20-2-666(a)(1).

³⁴ O.C.G.A. § 20-2-664(6).

³⁵ O.C.G.A. § 20-2-664(6)(A)(ii).

5. How do I request records?

Send the request to the “custodian” of records (typically the superintendent or a designated open records contact), often identified on the website maintained by the school district.³⁶ Though you may request the records orally, it’s best to submit your request in writing, as the Georgia Open Records Act only permits civil or criminal enforcement for written requests.³⁷ You can send the request by letter or by email, if email is used to conduct daily business of the school or agency. Some may provide online records request portals.

Be sure to clarify that your request is made “pursuant of the Open Records Act.” You are not required to provide a reason for your request in the letter. Identify the record(s) you are seeking as narrowly and specifically as possible.³⁸ If you wish to receive the records in electronic format, specify this in your request.³⁹ Obtaining electronic records may lower your duplication costs. It’s prudent to mention that you are pre-authorizing fees up to a certain amount, which can save time while also protecting against unexpectedly high fees.⁴⁰ You also have the option to review records in person at the school system office.⁴¹

6. What are the fees?

Fees for accessing public records are allowed under state law. However, the agency or school is required to use “the most economical means” to retrieve and produce any requested records.⁴² The agency may not charge for the first 15 minutes of time.⁴³ Charges for search, retrieval or redaction of records may not exceed the prorated hourly salary of the lowest paid full-time employee who has the necessary skill and training to perform the request.⁴⁴ Copying fees cannot exceed 10¢ per page for letter or legal size documents or, in the case of other documents, the actual cost of producing the copy.⁴⁵

In the case of electronic records, the district may charge the actual cost of the media on which the records or data are produced.⁴⁶ If the estimated total cost exceeds \$25, the district must notify you, and if the total exceeds \$500, they may insist on prepayment.⁴⁷ Fees are not applicable to a

³⁶ O.C.G.A. § 50-18-71(b)(1)(B).

³⁷ O.C.G.A. § 50-18-71(b)(3).

³⁸ Peter C. Canfield, *Georgia Open Government Guide*, Reporter’s Committee for Freedom of the Press, <https://www.rcfp.org/open-government-guide/georgia/#iv-procedure-for-obtaining-records>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ O.C.G.A. § 50-18-71(a).

⁴² O.C.G.A. § 50-18-71(c)(1).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ O.C.G.A. § 50-18-71(c)(2).

⁴⁶ *Id.*

⁴⁷ O.C.G.A. § 50-18-71(d).

person reviewing records routinely subject to public inspection, i.e., deeds, city ordinances and zoning maps.⁴⁸ Keep a record of any fees charged and paid during this process.

7. How long will I have to wait for records after submitting my request?

The district has up to three days to respond.⁴⁹ The exception to the three-day rule is that any intercollegiate sports program of any unit of the University of Georgia, including athletic departments and related private athletic associations, has up to ninety business days to respond.⁵⁰ The response doesn't have to be anything more than an acknowledgement of your request, with an estimated time frame as to when the responsive records will be provided.⁵¹

If they do not respond within that time frame, the nonresponse is a violation of law.⁵² You can attempt to follow up with the district or file a lawsuit. You may also file an Open Government Complaint with the Georgia Attorney General's Office (this can be found on the Attorney General's Office's website, law.georgia.gov, in the "Open Government" section, although investigations based on these complaints are relatively rare).

8. What meets the definition of a public school board meeting?

A meeting is defined by the Georgia Open Meetings Act ("OMA") as the gathering of a quorum of the members of a school board or any of its committees at which any official business, policy or public matter is formulated, presented, discussed or voted on.⁵³

Members of a school board may gather to inspect physical facilities or property, to travel to a meeting, or to attend social, ceremonial, civic or religious events without convening a "public meeting" provided no official action is taken and/or no business is discussed. Board members also may visit state or federal officials in their offices without it being considered an official meeting, as long as no official action is taken.

9. Is the board required to publicize its regular meetings?

Yes. Every year, the board must determine the dates for its regular monthly meetings and must publish those dates in the official county organ (legal newspaper) or in a newspaper having a general circulation in the county at least equal to that of the official county organ, for two

⁴⁸ See *Howard v. Sumter Free Press, Inc.*, 272 Ga. 521, 522, 531 S.E.2d 698 (2000).

⁴⁹ O.C.G.A. § 50-18-71(b)(1)(A).

⁵⁰ O.C.G.A. § 50-18-71(d.1).

⁵¹ O.C.G.A. § 50-18-71(b)(1)(A).

⁵² *Jaraysi v. City of Marietta*, 294 Ga. App. 6, 668 S.E.2d 446 (2008).

⁵³ O.C.G.A. § 20-2.

consecutive weeks following the setting of the dates.⁵⁴ The dates shall not be changed more than once in 12 months and, if changed, the new date(s) shall also be published.⁵⁵

The school district also is required to publish notice of the board's regular monthly meetings in a prominent manner on its principal public website.⁵⁶ Additionally, the district must post a copy of the monthly meeting's agenda as far in advance as reasonably possible during the two-week period before the meeting.⁵⁷

In regard to special/emergency meetings, the district must provide 24-hours' notice via the legal newspaper of the county, if possible.⁵⁸ If the district is unable to provide 24-hours' notice, it may still hold a meeting, as long as notice is given to all necessary/expected parties is considered reasonable under the circumstances.⁵⁹

Additionally, the board is required to include its public comment period on the posted agenda.⁶⁰

10. Are school board meetings open to the public?

A meeting is open to the public up until the board takes an official vote to close the meeting.⁶¹ (See FAQ related to executive sessions.) The audience may record audio and video and take photographs.

11. Will I have the opportunity to speak at the meeting?

Yes. Unlike most agencies, local boards of education are required to provide a public comment period during regular monthly meetings.

The board may require notice that an attendee wishes to speak (e.g., via a community speaker sign-in sheet), but it can't require more than 24-hours' notice as a condition of addressing the board during the public comment period.

The board may limit time for individual comments and the number of individuals speaking for or against a specific issue.

12. Can the meeting occur virtually?

⁵⁴ O.C.G.A. § 20-2-58(a); *see also* O.C.G.A. § 9-13-142 (defining "official organ").

⁵⁵ *Id.*

⁵⁶ O.C.G.A. § 20-2-58(a).

⁵⁷ O.C.G.A. § 50-14-1(e)(1).

⁵⁸ O.C.G.A. § 50-14-1(d)(2).

⁵⁹ O.C.G.A. § 50-14-1(d)(3).

⁶⁰ O.C.G.A. § 20-2-58(a).

⁶¹ O.C.G.A. § 50-14-4(a).

Meetings may be conducted via written, telephonic, electronic, wireless or other virtual means. Virtual meetings are subject to the same rules for public access as any other type of public meeting.⁶²

The Court of Appeals of Georgia has held that an agency does not violate the Open Meetings Act when they informally agree on official business via a series of individual telephone calls, because for the OMA's definition of a "meeting" to apply, a quorum must be gathered in a designated time and place.⁶³ Although the court held that the series of informal phone calls did not meet the definition of "meeting," the court was careful to clarify that a meeting in a virtual space could be considered a meeting if it otherwise met the definition set forth in the Act, and all "meetings" must meet the requirements of prior notice and public access.

If you think district business is being discussed between individual board members or school personnel via text or email, you may request those emails and texts pursuant to the Georgia Open Records Act.

13. What is an executive session?

An executive session is a portion of a school board meeting closed to the public.⁶⁴ Board members must take a majority vote during the open portion of a meeting to close the meeting for an executive session.⁶⁵ Meetings may be closed only for specific reasons enumerated within the statute, such as staff meetings held for investigative purposes, mediations, settlement or negotiation discussions, a privileged discussion relating to a pending lawsuit, or a discussion concerning a real estate transaction or a personnel matter.⁶⁶ However, any action (i.e., a vote) must occur, or be ratified, in a public meeting.⁶⁷

14. What do I do if a school board member commits a violation at a meeting?

If a board member commits a violation during a meeting, you may take these actions:

1. Document the suspected violation. Take an audio or video recording and/or take notes.
2. State your objection during public comment, if possible. You may raise concerns about a suspected violation, e.g., "I noticed that X happened. I want the board to note and the minutes to reflect that action might be a violation of the Georgia Open Meetings Act."

⁶² *Claxton Enter. v. Evans Cnty. Bd. of Comm'rs*, 249 Ga. App. 870, 875, 549 S.E.2d 830, 835 (2001).

⁶³ *Claxton Enter. v. Evans Cnty. Bd. of Comm'rs*, 249 Ga. App. 870, 875, 549 S.E.2d 830, 835 (2001).

⁶⁴ O.C.G.A. § 50-14-1(a)(2).

⁶⁵ O.C.G.A. § 50-14-4(a).

⁶⁶ O.C.G.A. § 50-14-3.

⁶⁷ O.C.G.A. §§ 50-14-1(b)(1); 50-14-3(a)(5), (b)(1-2, 5).

Note: Do not raise your voice, threaten a school official or employee or act in any way that could be deemed hostile or violent. A member of the public may be removed from a meeting for conduct that is “actually disruptive.”

3. If you wish to pursue formal invalidation of action taken by the board during a violation of the Open Meetings Act, you must file a lawsuit within 90 days of the violation, or within 90 days of the date that the contestant knew or should have known about the violation, but never more than six months after the date of the violation regardless of knowledge.⁶⁸
4. You also may file a lawsuit for injunctive relief asking the court to order the school board not to repeat the conduct in the future.
5. You can sue the board for civil and criminal penalties for meetings violations: up to \$1,000 for the first violation, and up to \$2,500 for each additional violation within a year of the first penalty. If you win, you also may seek reimbursement or payment for attorney’s fees and court costs.⁶⁹

It’s also worth noting that an elected official’s participation in an unlawfully closed meeting may be grounds for recall from office.⁷⁰

15. What is the board required to do after a meeting?

Within two business days after a meeting, the board must write and provide for public inspection a summary of members present and subjects acted upon.⁷¹

Additionally, before the next regular meeting, the board must make official minutes available for public inspection, which must include:

1. the names of the members present;
2. a description of each motion or proposal made (including motions to go into executive session);
3. the identity of the persons making and seconding the motion or proposal; and
4. a record of all votes, including the name of each person voting.⁷²

If an executive session occurred, the person presiding over that meeting must include a notarized affidavit stating that the subject matter of the closed portion of the meeting was devoted to matters within a specified legal exception to the Georgia Open Meetings Act.⁷³

⁶⁸ O.C.G.A. § 50-14-1(b)(2).

⁶⁹ O.C.G.A. § 50-14-6.

⁷⁰ See *Steele v. Honea*, 261 Ga. 644, 409 S.E.2d 652 (1991).

⁷¹ O.C.G.A. § 50-14-1(e)(2).

⁷² O.C.G.A. § 50-14-1(e)(2)(B).

⁷³ O.C.G.A. § 50-14-4(b)(1).

16. What recent laws govern parental challenges to school board actions or school materials?

O.C.G.A. § 20-2-324.6 requires each school board in Georgia to adopt a complaint resolution policy for its district to address written complaints submitted by parents or permanent guardians alleging that material available in their child's school is harmful.⁷⁴

Under the law, each school principal must review the complaint and investigate it within seven days, then meet with the parent(s) within ten days to inform them whether student access to the specified material will be restricted.⁷⁵ The parent who filed the original complaint can appeal to the local board of education.⁷⁶ If the board denies the appeal, it must publish on its website within 15 days the title(s) of material identified in the parental complaint; the list of materials shall remain on the website for at least one year.⁷⁷ A parent or permanent guardian may request access to appealed materials that are physical in nature and accessible to their student in the student's school media center, and they must abide by the school's policies and procedures when requesting and reviewing such material.⁷⁸

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⁷⁴ O.C.G.A. § 20-2-324.6.

⁷⁵ O.C.G.A. § 20-2-324.6(b)(3).

⁷⁶ O.C.G.A. § 20-2-324.6(b)(7).

⁷⁷ O.C.G.A. § 20-2-324.6(b)(8).

⁷⁸ *Id.*