

Title 13. Contracts
Chapter 10. Contracts for Public Works
Article 3. Federal Work Authorization Program
O.C.G.A. § 13-10-91. Registration and participation of contractors; forms, rules, and regulations

(a) Every public employer, including, but not limited to, every municipality and county, shall register and participate in the federal work authorization program to verify employment eligibility of all newly hired employees. Upon federal authorization, a public employer shall permanently post the employer's federally issued user identification number and date of authorization, as established by the agreement for authorization, on the employer's website; provided, however, that if a local public employer does not maintain a website, then the local government shall submit such information to the Carl Vinson Institute of Government of the University of Georgia to be posted by the institute on the website created for local government audit and budget reporting. The Carl Vinson Institute of Government of the University of Georgia shall maintain the information submitted and provide instructions and submission guidelines for local governments. State departments, agencies, or instrumentalities may satisfy the requirement of this Code section by posting information required by this Code section on one website maintained and operated by the state.

(b)(1) A public employer shall not enter into a contract for the physical performance of services unless the contractor registers and participates in the federal work authorization program. Before a bid for any such service is considered by a public employer, the bid shall include a signed, notarized affidavit from the contractor attesting to the following:

(A) The affiant has registered with, is authorized to use, and uses the federal work authorization program;

(B) The user identification number and date of authorization for the affiant;

(C) The affiant will continue to use the federal work authorization program throughout the contract period; and

(D) The affiant will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the same information required by subparagraphs (A), (B), and (C) of this paragraph.

An affidavit required by this subsection shall be considered an open public record once a public employer has entered into a contract for physical performance of services; provided, however, that any information protected from public disclosure by federal law or by Article 4 of Chapter 18 of Title 50 shall be redacted. Affidavits shall be maintained by the public employer for five years from the date of receipt.

(2) A contractor shall not enter into any contract with a public employer for the physical performance of services unless the contractor registers and participates in the federal work authorization program.

(3) A subcontractor shall not enter into any contract with a contractor unless such subcontractor registers and participates in the federal work authorization program. A subcontractor shall submit, at the time of such contract, an affidavit to the contractor in the same manner and with the same information required in paragraph (1) of this subsection. It shall be the duty of any subcontractor receiving an affidavit from a sub-subcontractor to forward notice to the contractor of the receipt, within five business days of receipt, of such affidavit. It shall be the duty of a subcontractor receiving notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor.

(4) A sub-subcontractor shall not enter into any contract with a subcontractor or sub-subcontractor unless such sub-subcontractor registers and participates in the federal work authorization program. A sub-subcontractor shall submit, at the time of such contract, an affidavit to the subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract, in the same manner and with the same information required in paragraph (1) of this subsection. It shall be the duty of any sub-subcontractor to forward notice of receipt of any affidavit from a sub-subcontractor to the subcontractor or sub-subcontractor with whom such receiving sub-subcontractor has privity of contract.

(5) In lieu of the affidavit required by this subsection, a contractor, subcontractor, or sub-subcontractor who has no employees and does not hire or intend to hire employees for purposes of satisfying or completing the terms and conditions of any part or all of the original contract with the public employer shall instead provide a copy of the state issued driver's license or state issued identification card of such contracting party and a copy of the state issued driver's license or identification card of each independent contractor utilized in the satisfaction of part or all of the original contract with a public employer. A driver's license or identification card shall only be accepted in lieu of an affidavit if it is issued by a state within the United States and such state verifies lawful immigration status prior to issuing a driver's license or identification card. For purposes of satisfying the requirements of this subsection, copies of such driver's license or identification card shall be forwarded to the public employer, contractor, subcontractor, or sub-subcontractor in the same manner as an affidavit and notice of receipt of an affidavit as required by paragraphs (1), (3), and (4) of this subsection. Not later than July 1, 2011, the Attorney General shall provide a list of the states that verify immigration status prior to the issuance of a driver's license or identification card and that only issue licenses or identification cards to persons lawfully present in the United States. The list of verified state drivers' licenses and identification cards shall be posted on the website of the State Law Department and updated annually thereafter. In the event that a contractor, subcontractor, or sub-subcontractor later determines that he or she will need to hire employees to satisfy or complete the physical performance

of services under an applicable contract, then he or she shall first be required to comply with the affidavit requirements of this subsection.

(6) It shall be the duty of the contractor to submit copies of all affidavits, drivers' licenses, and identification cards required pursuant to this subsection to the public employer within five business days of receipt. No later than August 1, 2011, the Departments of Audits and Accounts shall create and post on its website form affidavits for the federal work authorization program. The affidavits shall require fields for the following information: the name of the project, the name of the contractor, subcontractor, or sub-subcontractor, the name of the public employer, and the employment eligibility information required pursuant to this subsection.

(7)(A) Public employers subject to the requirements of this subsection shall provide an annual report to the Department of Audits and Accounts pursuant to Code Section 50-36-4 as proof of compliance with this subsection. Subject to available funding, the state auditor shall conduct annual compliance audits on a minimum of at least one-half of the reporting agencies and publish the results of such audits annually on the Department of Audits and Accounts' website on or before September 30.

(B) If the state auditor finds a political subdivision to be in violation of this subsection, such political subdivision shall be provided 30 days to demonstrate to the state auditor that such political subdivision has corrected all deficiencies and is in compliance with this subsection. If, after 30 days, the political subdivision has failed to correct all deficiencies, such political subdivision shall be excluded from the list of qualified local governments under Chapter 8 of Title 50 until such time as the political subdivision demonstrates to the state auditor that such political subdivision has corrected all deficiencies and is in compliance with this subsection.

(C)(i) At any time after the state auditor finds a political subdivision to be in violation of this subsection, such political subdivision may seek administrative relief through the Office of State Administrative Hearings. If a political subdivision seeks administrative relief, the time for correcting deficiencies shall be tolled, and any action to exclude the political subdivision from the list of qualified governments under Chapter 8 of Title 50 shall be suspended until such time as a final ruling upholding the findings of the state auditor is issued.

(ii) A new compliance report submitted to the state auditor by the political subdivision shall be deemed satisfactory and shall correct the prior deficient compliance report so long as the new report fully complies with this subsection.

(iii) No political subdivision of this state shall be found to be in violation of this subsection by the state auditor as a result of any actions of a county constitutional officer.

(D) If the state auditor finds any political subdivision which is a state department or agency to be in violation of the provisions of this subsection twice in a five-year period, the funds appropriated to such state department or agency for the fiscal year following the year in which the agency was found to be in violation for the second time shall be not greater than 90 percent of the amount so appropriated in the second year of such noncompliance. Any political subdivision found to be in violation of the provisions of this subsection shall be listed on www.open.georgia.gov or another official state website with an indication and explanation of each violation.

(8) Contingent upon appropriation or approval of necessary funding and in order to verify compliance with the provisions of this subsection, each year the Commissioner shall conduct no fewer than 100 random audits of public employers and contractors or may conduct such an audit upon reasonable grounds to suspect a violation of this subsection. The results of the audits shall be published on the www.open.georgia.gov website and on the Georgia Department of Labor's website no later than December 31 of each year. The Georgia Department of Labor shall seek funding from the United States Secretary of Labor to the extent such funding is available.

(9) Any person who knowingly and willfully makes a false, fictitious, or fraudulent statement in an affidavit submitted pursuant to this subsection shall be guilty of a violation of Code Section 16-10-20 and, upon conviction, shall be punished as provided in such Code section. Contractors, subcontractors, sub-subcontractors, and any person convicted for false statements based on a violation of this subsection shall be prohibited from bidding on or entering into any public contract for 12 months following such conviction. A contractor, subcontractor, or sub-subcontractor that has been found by the Commissioner to have violated this subsection shall be listed by the Department of Labor on www.open.georgia.gov or other official website of the state with public information regarding such violation, including the identity of the violator, the nature of the contract, and the date of conviction. A public employee, contractor, subcontractor, or sub-subcontractor shall not be held civilly liable or criminally responsible for unknowingly or unintentionally accepting a bid from or contracting with a contractor, subcontractor, or sub-subcontractor acting in violation of this subsection. Any contractor, subcontractor, or sub-subcontractor found by the Commissioner to have violated this subsection shall, on a second or subsequent violations, be prohibited from bidding on or entering into any public contract for 12 months following the date of such finding.

(10) There shall be a rebuttable presumption that a public employer, contractor, subcontractor, or sub-subcontractor receiving and acting upon an affidavit conforming to the content requirements of this subsection does so in good faith, and such public employer, contractor, subcontractor, or sub-subcontractor may rely upon such affidavit as being true and correct. The affidavit shall be admissible in any court of law for the purpose of establishing such presumption.

(11) Documents required by this Code section may be submitted electronically, provided the submission complies with Chapter 12 of Title 10.

(c) This Code section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(d) Except as provided in subsection (e) of this Code section, the Commissioner shall prescribe forms and promulgate rules and regulations deemed necessary in order to administer and effectuate this Code section and publish such rules and regulations on the Georgia Department of Labor's website.

(e) The commissioner of the Georgia Department of Transportation shall prescribe all forms and promulgate rules and regulations deemed necessary for the application of this Code section to any contract or agreement relating to public transportation and shall publish such rules and regulations on the Georgia Department of Transportation's website.

(f) No employer or agency or political subdivision, as such term is defined in Code Section 50-36-1, shall be subject to lawsuit or liability arising from any act to comply with the requirements of this Code section.

Current through 2017 Regular Session

Minor, M.A. & Georgia Public Library Service. (2013). *Legal issues in Georgia's public libraries* (2nd ed.). pp. 28-30. (Available in Directors' Knowledge Base for Georgia Public Library System Directors).

Newman, M.J. & Duong H. (2007). The Georgia Security and Immigration Compliance Act: Comprehensive immigration reform in Georgia—think globally . . . act locally. *Georgia Bar Journal* (13)4.

Title 19. Domestic Relations
Chapter 7. Parent and Child Relationship Generally
Article 1. General Provisions

O.C.G.A. § 19-7-5. Reports by physicians, treating personnel, institutions and others as to child abuse; failure to report suspected child abuse

(a) The purpose of this Code section is to provide for the protection of children. It is intended that mandatory reporting will cause the protective services of the state to be brought to bear on the situation in an effort to prevent abuses, to protect and enhance the welfare of children, and to preserve family life wherever possible. This Code section shall be liberally construed so as to carry out the purposes thereof.

(b) As used in this Code section, the term:

(1) "Abortion" shall have the same meaning as set forth in Code Section 15-11-681.

(2) "Abused" means subjected to child abuse.

(3) "Child" means any person under 18 years of age.

(4) "Child abuse" means:

(A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by other than accidental means; provided, however, that physical forms of discipline may be used as long as there is no physical injury to the child;

(B) Neglect or exploitation of a child by a parent or caretaker thereof;

(C) Endangering a child;

(D) Sexual abuse of a child; or

(E) Sexual exploitation of a child.

However, no child who in good faith is being treated solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be an abused child.

(5) "Child service organization personnel" means persons employed by or volunteering at a business or an organization, whether public, private, for profit, not for profit, or voluntary, that provides care, treatment, education, training, supervision, coaching, counseling, recreational programs, or shelter to children.

(6) "Clergy" means ministers, priests, rabbis, imams, or similar functionaries, by whatever name called, of a bona fide religious organization.

(6.1) "Endangering a child" means:

(A) Any act described by subsection (d) of Code Section 16-5-70;

(B) Any act described by Code Section 16-5-73;

(C) Any act described by subsection (l) of Code Section 40-6-391; or

(D) Prenatal abuse, as such term is defined in Code Section 15-11-2.

(7) "Pregnancy resource center" means an organization or facility that:

(A) Provides pregnancy counseling or information as its primary purpose, either for a fee or as a free service;

(B) Does not provide or refer for abortions;

(C) Does not provide or refer for FDA approved contraceptive drugs or devices; and

(D) Is not licensed or certified by the state or federal government to provide medical or health care services and is not otherwise bound to follow the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or federal laws relating to patient confidentiality.

(8) "Reproductive health care facility" means any office, clinic, or any other physical location that provides abortions, abortion counseling, abortion referrals, or gynecological care and services.

(9) "School" means any public or private pre-kindergarten, elementary school, secondary school, technical school, vocational school, college, university, or institution of postsecondary education.

(10) "Sexual abuse" means a person's employing, using, persuading, inducing, enticing, or coercing any minor who is not such person's spouse to engage in any act which involves:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts;

(H) Defecation or urination for the purpose of sexual stimulation;

(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure; or

(J) Any act described by subsection (c) of Code Section 16-5-46.

Sexual abuse shall include consensual sex acts when the sex acts are between minors if any individual is less than 14 years of age; provided, however, that it shall not include consensual sex acts when the sex acts are between a minor and an adult who is not more than four years older than the minor. This provision shall not be deemed or construed to repeal any law concerning the age or capacity to consent.

(11) "Sexual exploitation" means conduct by any person who allows, permits, encourages, or requires a child to engage in:

(A) Prostitution, as defined in Code Section 16-6-9; or

(B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, as defined in Code Section 16-12-100.

(c)(1) The following persons having reasonable cause to believe that suspected child abuse has occurred shall report or cause reports of such abuse to be made as provided in this Code section:

(A) Physicians licensed to practice medicine, physician assistants, interns, or residents;

(B) Hospital or medical personnel;

(C) Dentists;

(D) Licensed psychologists and persons participating in internships to obtain licensing pursuant to Chapter 39 of Title 43;

(E) Podiatrists;

(F) Registered professional nurses or licensed practical nurses licensed pursuant to Chapter 26 of Title 43 or nurse's aides;

(G) Professional counselors, social workers, or marriage and family therapists licensed pursuant to Chapter 10A of Title 43;

(H) School teachers;

(I) School administrators;
(J) School counselors, visiting teachers, school social workers, or school psychologists certified pursuant to Chapter 2 of Title 20;

(K) Child welfare agency personnel, as such agency is defined in Code Section 49-5-12;

(L) Child-counseling personnel;

(M) Child service organization personnel;

(N) Law enforcement personnel; or

(O) Reproductive health care facility or pregnancy resource center personnel and volunteers.

(2) If a person is required to report child abuse pursuant to this subsection because such person attends to a child pursuant to such person's duties as an employee of or volunteer at a hospital, school, social agency, or similar facility, such person shall notify the person in charge of such hospital, school, agency, or facility, or the designated delegate thereof, and the person so notified shall report or cause a report to be made in accordance with this Code section. An employee or volunteer who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection. Under no circumstances shall any person in charge of such hospital, school, agency, or facility, or the designated delegate thereof, to whom such notification has been made exercise any control, restraint, or modification or make any other change to the information provided by the reporter, although each of the aforementioned persons may be consulted prior to the making of a report and may provide any additional, relevant, and necessary information when making the report.

(3) When a person identified in paragraph (1) of this subsection has reasonable cause to believe that child abuse has occurred involving a person who attends to a child pursuant to such person's duties as an employee of or volunteer at a hospital, school, social agency, or similar facility, the person who received such information shall notify the person in charge of such hospital, school, agency, or facility, or the designated delegate thereof, and the person so notified shall report or cause a report to be made in accordance with this Code section. An employee or volunteer who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection. Under no circumstances shall any person in charge of such hospital, school, agency, or facility, or the designated delegate thereof, to whom such notification has been made exercise any control, restraint, or modification or make any other change to the information provided by the reporter, although each of the aforementioned persons may be consulted prior to the making of a report and may provide any additional, relevant, and necessary information when making the report.

(d) Any other person, other than one specified in subsection (c) of this Code section, who has reasonable cause to believe that suspected child abuse has occurred may report or cause reports to be made as provided in this Code section.

(e) With respect to reporting required by subsection (c) of this Code section, an oral report by telephone or other oral communication or a written report by electronic submission or facsimile

shall be made immediately, but in no case later than 24 hours from the time there is reasonable cause to believe that suspected child abuse has occurred. When a report is being made by electronic submission or facsimile to the Division of Family and Children Services of the Department of Human Services, it shall be done in the manner specified by the division. Oral reports shall be followed by a later report in writing, if requested, to a child welfare agency providing protective services, as designated by the Division of Family and Children Services of the Department of Human Services, or, in the absence of such agency, to an appropriate police authority or district attorney. If a report of child abuse is made to the child welfare agency or independently discovered by the agency, and the agency has reasonable cause to believe such report is true or the report contains any allegation or evidence of child abuse, then the agency shall immediately notify the appropriate police authority or district attorney. Such reports shall contain the names and addresses of the child and the child's parents or caretakers, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator. Photographs of the child's injuries to be used as documentation in support of allegations by hospital employees or volunteers, physicians, law enforcement personnel, school officials, or employees or volunteers of legally mandated public or private child protective agencies may be taken without the permission of the child's parent or guardian. Such photographs shall be made available as soon as possible to the chief welfare agency providing protective services and to the appropriate police authority.

(f) Any person or persons, partnership, firm, corporation, association, hospital, or other entity participating in the making of a report or causing a report to be made to a child welfare agency providing protective services or to an appropriate police authority pursuant to this Code section or any other law or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided that such participation pursuant to this Code section or any other law is made in good faith. Any person making a report, whether required by this Code section or not, shall be immune from liability as provided in this subsection.

(g) Suspected child abuse which is required to be reported by any person pursuant to this Code section shall be reported notwithstanding that the reasonable cause to believe such abuse has occurred or is occurring is based in whole or in part upon any communication to that person which is otherwise made privileged or confidential by law; provided, however, that a member of the clergy shall not be required to report child abuse reported solely within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. When a clergy member receives information about child abuse from any other source, the clergy member shall comply with the reporting requirements of this Code section, even though the clergy member may have also received a report of child abuse from the confession of the perpetrator.

(h) Any person or official required by subsection (c) of this Code section to report a suspected case of child abuse who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

(i) A report of child abuse or information relating thereto and contained in such report, when provided to a law enforcement agency or district attorney pursuant to subsection (e) of this Code

section or pursuant to Code Section 49-5-41, shall not be subject to public inspection under Article 4 of Chapter 18 of Title 50 even though such report or information is contained in or part of closed records compiled for law enforcement or prosecution purposes unless:

(1) There is a criminal or civil court proceeding which has been initiated based in whole or in part upon the facts regarding abuse which are alleged in the child abuse reports and the person or entity seeking to inspect such records provides clear and convincing evidence of such proceeding; or

(2) The superior court in the county in which is located the office of the law enforcement agency or district attorney which compiled the records containing such reports, after application for inspection and a hearing on the issue, shall permit inspection of such records by or release of information from such records to individuals or entities who are engaged in legitimate research for educational, scientific, or public purposes and who comply with the provisions of this paragraph. When those records are located in more than one county, the application may be made to the superior court of any one of such counties. A copy of any application authorized by this paragraph shall be served on the office of the law enforcement agency or district attorney which compiled the records containing such reports. In cases where the location of the records is unknown to the applicant, the application may be made to the Superior Court of Fulton County. The superior court to which an application is made shall not grant the application unless:

(A) The application includes a description of the proposed research project, including a specific statement of the information required, the purpose for which the project requires that information, and a methodology to assure the information is not arbitrarily sought;

(B) The applicant carries the burden of showing the legitimacy of the research project; and

(C) Names and addresses of individuals, other than officials, employees, or agents of agencies receiving or investigating a report of abuse which is the subject of a report, shall be deleted from any information released pursuant to this subsection unless the court determines that having the names and addresses open for review is essential to the research and the child, through his or her representative, gives permission to release the information.

Current through the 2017 Regular Session

Minor, M.A. & Georgia Public Library Service. (2013). *Legal issues in Georgia's public libraries* (2nd ed.) pp. 63-67. (Available in Directors' Knowledge Base for Georgia Public Library System Directors).

Minor, M.A. & Georgia Public Library Service. (2012). *Mandatory reporting of child abuse: A guide for public libraries in Georgia*. Available at http://www.georgialibraries.org/dir_mtg/12_2012/

Title 20. Education
Chapter 2. Elementary and Secondary Education
Article 6. Quality Basic Education
Part 14. Other Educational Programs
O.C.G.A. § 20-2-305. County and regional public libraries

(a) The board of regents shall annually determine and request of the General Assembly the amount of funds needed for county and regional public libraries. This request shall include, but not be limited to, funds to provide library books and materials, salaries and travel for professional librarians, capital outlay for public library construction, and maintenance and operation. The amount for library books and materials shall be not less than 35¢ per person. Funds for the purpose of paying the salaries of librarians allotted shall be in accordance with regulations established by the state board and the state minimum salary schedule for certificated professional personnel. Public library funds shall be apportioned to county and regional public libraries in proportion to the area and population to be served by such libraries in accordance with regulations and minimum public library requirements prescribed by the state board. All such funds shall be distributed directly to the regional or county library boards.

(b) The board of regents shall make adequate provisions for staff, supplies, services, and facilities to operate and maintain special media equipment to meet the library needs of the blind and disabled citizens of this state.

(c) The board of regents shall provide the staff, materials, equipment, and supplies to provide a book-lending and information service to all county and regional public libraries in the state and to coordinate interlibrary cooperation and interchange of materials and information among all types of libraries.

(d) The board of regents is authorized as the sole agency to receive federal funds allotted to this state for public libraries.

(e) The board of regents shall adopt policies and regulations to implement this Code section.

(f) As used in this Code section, the term "board of regents" means the Board of Regents of the University System of Georgia.

Current through the 2017 Regular Session

Title 20. Education
Chapter 2. Elementary and Secondary Education
Article 6. Quality Basic Education
Part 15. Miscellaneous Provisions

O.C.G.A. § 20-2-320. Quality Basic Education Program; steering committee; state-wide comprehensive educational information system; release of information

(a) There shall be a state-wide comprehensive educational information system which will provide for the accurate, seamless, and timely flow of information from local and regional education agencies, units of the University System of Georgia, and technical schools and colleges to the state. The system design shall include hardware, software, data, collection methods and times, training, maintenance, communications, security of data, and installation specifications and any other relevant specifications needed for the successful implementation of the system. The state-wide comprehensive educational information system shall not use a student's social security number or an employee's social security number in violation of state or federal law to identify a student or employee. Upon approval of the boards of the respective education agencies, such boards shall issue appropriate requests for proposals to implement a state-wide comprehensive educational information system, subject to appropriation by the General Assembly. The boards of the respective education agencies, at the direction of the Education Coordinating Council, shall initiate contracts with appropriate vendors and local units of administration for the procurement of services, purchase of hardware and software, and for any other purpose as directed by the Education Coordinating Council, consistent with appropriation by the General Assembly.

(b) The State Board of Education, the State Board of the Technical College System of Georgia, the Board of Regents of the University System of Georgia, and the Department of Early Care and Learning shall require an individual student record for each student enrolled which at a minimum includes the data specifications approved by the Education Coordinating Council. The Professional Standards Commission shall maintain an individual data record for each certificated person employed in a public school.

(c) For the purpose of this article, authorized educational agencies shall be the Department of Education; the Department of Early Care and Learning; the Board of Regents of the University System of Georgia; the Technical College System of Georgia; the Education Coordinating Council; the Professional Standards Commission; the Office of Student Achievement; the education policy and research components of the office of the Governor; the Office of Planning and Budget; the Senate Budget and Evaluation Office; and the House Budget and Research Office. Any information collected over the state-wide comprehensive educational information system, including individual student records and individual personnel records, shall be accessible by authorized educational agencies, provided that any information which is planned for collection over the system but which is temporarily being collected by other means shall also be accessible by authorized educational agencies and provided, further, that adequate security provisions are employed to protect the privacy of individuals. All data maintained for this system shall be used for educational purposes only. In no case shall information be released by an authorized educational agency which would violate the privacy rights of any individual student or employee. Information released by an authorized educational agency in violation of the privacy rights of any

individual student or employee shall subject the authorized educational agency to all penalties under applicable state and federal law. Any information collected over the state-wide comprehensive educational information system which is not stored in an individual student or personnel record format shall be made available to the Governor and the House and Senate Appropriations Committees, the House Committee on Education, the Senate Education and Youth Committee, the House Committee on Higher Education, and the Senate Higher Education Committee, except information otherwise prohibited by statute. Data which are included in an individual student record or individual personnel record format shall be extracted from such records and made available in nonindividual record format for use by the Governor, committees of the General Assembly, and agencies other than authorized educational agencies.

(d) The Department of Education shall request sufficient funds annually for the operation, training of appropriate personnel, and maintenance and enhancements of the system.

(e) In a phased approach, the state-wide comprehensive educational information system shall be fully completed subject to appropriation by the General Assembly for this purpose. During the phased implementation of the system, highest priority shall be given to the electronic transmission of complete full-time equivalent counts, the uniform budgeting and accounting system, and complete salary data for each local school system. All pre- kindergarten programs, local units of administration for grades kindergarten through 12, technical schools and colleges, public libraries, public colleges and universities, and regional educational service agencies shall provide data as required by their respective boards and agencies. Notwithstanding any provision of this Code section to the contrary, no local school system shall earn funds under Code Section 20-2-186 for superintendents, assistant superintendents, or principals if the local unit of administration fails to comply with the provisions of this Code section.

(f) Notwithstanding any other provision of law, the Department of Education is authorized to and shall obtain and provide to the Department of Driver Services, in a form to be agreed upon between the Department of Education and the Department of Driver Services, enrollment, expulsion, and suspension information regarding minors 15 through 17 years of age reported pursuant to Code Sections 20-2-690 and 20-2-697, to be used solely for the purposes set forth in subsection (a.1) of Code Section 40-5-22.

Current through the 2017 Regular Session

Title 20. Education
Chapter 3. Postsecondary Education
Article 2. Board of Regents and University System
Part 1. Board of Regents

O.C.G.A. § 20-3-39. Transfer of functions and personnel relating to public libraries from the Technical College System of Georgia to Board of Regents

(a) Effective July 1, 2000, the board of regents shall carry out all the functions and exercise all of the powers formerly held by the Department of Technical and Adult Education, now known as the Technical College System of Georgia, for the operation and management of public library services and public libraries. Subject to subsection (b) of this Code section, all persons employed by and positions authorized for the Department of Technical and Adult Education, now known as the Technical College System of Georgia, to perform these functions on June 30, 2000, shall, on July 1, 2000, be transferred to the board of regents. All office equipment, furniture, and other assets in possession of the Department of Technical and Adult Education, now known as the Technical College System of Georgia, which are used or held exclusively or principally by personnel transferred under this subsection shall be transferred to the board of regents on July 1, 2000.

(b) All transfers of employees and assets provided for in subsection (a) of this Code section shall be subject to the approval of the board of regents, and such personnel or assets shall not be transferred if the board of regents determines that a specific employee or asset should remain with the transferring agency.

(c) Employees who are transferred to the board of regents pursuant to this Code section shall be subject to the employment practices and policies of the board on and after July 1, 2000, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and who are transferred to the board of regents shall retain all existing rights under such rules. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2000, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2000. Accrued annual and sick leave possessed by said employees on June 30, 2000, shall be retained by said employees as employees of the board.

(d) Funding for functions and positions transferred to the board of regents under this Code section shall be transferred as provided in Code Section 45-12-90.

(e) The board of regents shall succeed to all rules, regulations, policies, procedures, and administrative orders of the Department of Technical and Adult Education, now known as the Technical College System of Georgia, where applicable, which are in effect on June 30, 2000, and which relate to the functions transferred to the board. Such rules, regulations, policies, and procedures shall remain in effect until amended, repealed, superseded, or nullified by the board of regents.

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Title 20. Education
Chapter 5. Libraries
Article 1. State Public Library Activities
O.C.G.A. § 20-5-1. Policy as to library service stated

It is declared to be the policy of the state, as a part of the provisions for public education, to promote the establishment of public library service throughout the state.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 1. State Public Library Activities
O.C.G.A. § 20-5-2. Powers and duties of board of regents; acceptance of gifts; State Library Commission abolished

(a) The board of regents shall give aid, advice, and counsel to all libraries and to communities which may propose to establish libraries as to the best means of establishing and administering them, the selection of books, cataloging, and other details of library management and shall exercise supervision over all public libraries and endeavor to improve libraries already established. The board of regents may also conduct a book-lending and information service for the benefit of the citizens of the state, free of cost except postage. The board of regents is also authorized to purchase books, periodicals, and other instructional materials for such purposes. The board of regents may also employ necessary professional and clerical staff to carry on the work as stated in this Code section and may pay their necessary traveling expenses while engaged in such work.

(b) The board of regents shall have authority to accept gifts of books, money, or other property from any public or private source, including the federal government and shall have authority to perform any and all functions necessary to carry out the intention and purposes of this article.

(c) The State Library Commission is abolished, and the functions and services exercised and performed by it shall be exercised and performed by the board of regents.

(d) The collection of books, periodicals, documents, and other library materials held by the board of regents is designated as the State Library.

(e) Each department and institution within the executive branch of state government shall make a report to the director of the University of Georgia Libraries on or before December 1 of each year containing a list by title of all public documents published or issued by such department or institution during the preceding state fiscal year. The report shall also contain a statement noting the frequency of publication of each such public document. The director of the University of Georgia Libraries may disseminate copies of the lists, or such parts thereof, in such form as the director of University of Georgia Libraries, in his or her discretion, deems shall best serve the public interest. For purposes of this article, "public documents" shall mean the books, magazines, journals, pamphlets, reports, bulletins, and other publications of any agency, department, board, bureau, commission, or other institution of the executive branch of state government but specifically shall not include the reports of the Supreme Court and the Court of Appeals, the journals of the House and the Senate, or the session laws enacted by the General Assembly and shall not include forms published by any agency, department, board, bureau, commission, or other institution of the executive branch of state government.

(f) Each department and institution within the executive branch of state government shall submit to the director of the University of Georgia Libraries at least five copies of each of the public documents which such departments and institutions publish, within one month of its date of publication, unless the director of the University of Georgia Libraries requests additional copies of any such public documents, up to a maximum of 60 copies, in which case the number of copies requested shall be submitted.

(g) The Governor and all of the officers who are or may be required to make reports to the General Assembly shall furnish the director of the University of Georgia Libraries with at least five copies of each of such reports and additional copies upon request of the director of the University of Georgia Libraries.

(h) The Department of Administrative Services, the Georgia Correctional Industries Administration, the Board of Regents of the University System of Georgia, and any other agency of state government which prints public documents shall furnish to the director of the University of Georgia Libraries on a monthly basis a record of all public documents which have been printed or scheduled for printing by that agency during the preceding month.

(i) The director of the University of Georgia Libraries shall have the authority to supply copies of public documents to any state institution, public library, or public school in this state or to any other institution of learning which maintains a library, if such copies are available. Such copies may be furnished for a reasonable cost or free of charge or for the cost of postage or shipping, as the director of the University of Georgia Libraries deems appropriate.

(j) The director of the University of Georgia Libraries shall have the authority to act as the exchange agent of this state for the purpose of a regular exchange between this state and other states of public documents. The several state departments and institutions are required to deposit with the director of the University of Georgia Libraries for that purpose up to 50 copies of each of their public documents, as may be specified by the director of the University of Georgia Libraries.

(k) The director of the University of Georgia Libraries may transfer books and other library holdings to the Division of Archives and History, the Board of Regents of the University System of Georgia, or other public libraries. Books and other library holdings which are obsolete, defective, worn out, or surplus, or otherwise in the discretion of the director of the University of Georgia Libraries are not required, may be sold, destroyed, or otherwise disposed of by the director of the University of Georgia Libraries, without the need to comply with the provisions of Article 5 of Chapter 13 of Title 45 relating to the disposition of surplus state books.

(l) The director of the University of Georgia Libraries shall have the authority to employ the necessary personnel, including documents librarians and other professional personnel, to carry out the powers and duties set forth in this Code section.

(m) Any person or agency required by the provisions of this Code section to submit to the director of the University of Georgia Libraries copies of documents shall also submit such documents in such electronic form as the director shall specify, if such electronic form is readily available.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 1. State Public Library Activities
O.C.G.A. § 20-5-3. Funds for public library services

In order to effectuate the purposes of this article there shall be made available to the board of regents whatever funds may be duly allocated to it by the proper authority, either by specific appropriation or otherwise as now provided by law, and the board of regents shall be authorized to disburse such funds to public libraries serving persons of all ages through legally constituted municipal library boards or to the other legally constituted local library boards as may now or hereafter be established by law. The board of regents shall use such funds for the purpose of aiding and supplementing the establishment and development of public library services.

Current through the 2017 Regular Session

For Information on State Grants and Accounting, go to
http://www.georgialibraries.org/lib/stategrants_accounting/

Title 20. Education
Chapter 5. Libraries
Article 1. State Public Library Activities
O.C.G.A. § 20-5-4. Reports of libraries

All public libraries in the state shall submit reports annually to the board of regents.

Current through the 2017 Regular Session

For Information on Annual Reports, go to <http://www.georgialibraries.org/lib/statistics/>

Title 20. Education
Chapter 5. Libraries
Article 1. State Public Library Activities
O.C.G.A. § 20-5-5. Acceptable-use policy for Internet usage at public libraries

(a) As used in this Code section, the term:

(1) "Acceptable-use policy" means a policy for Internet usage adopted by the governing board of a public library that meets the requirements of this Code section.

(2) "Child pornography" means any computer depiction or other material depicting a child under the age of 18 years engaging in sexually explicit conduct or in the simulation of such conduct.

(3) "Harmful to minors" has the meaning given to such term in Code Section 16-12-100.1.

(4) "Internet" means a global network that connects computers via telephone lines, fiber networks, or both to electronic information.

(5) "Obscene" has the meaning given to such term in Code Section 16-12-80.

(6) "Sexually explicit conduct" has the meaning given to such term in Code Section 16-12-100.

(b) No later than January 1, 2007, the governing body of each public library shall adopt an acceptable-use policy for its public library system. At a minimum, an acceptable-use policy shall contain provisions which are reasonably designed to:

(1) Prevent library patrons, including those patrons under 18 years of age, and library employees from using any computer equipment and communication services owned or leased by the public library for sending, receiving, viewing, or downloading visual depictions of obscenity, child pornography, or material that is harmful to minors; and

(2) Establish appropriate measures to be taken against library patrons and employees who willfully violate the acceptable-use policy.

(c) A public library shall take such steps as it deems appropriate to implement and enforce the acceptable-use policy, which shall include, but not be limited to:

(1) Use of software programs reasonably designed to block access to visual depictions of obscenity, child pornography, and material that is harmful to minors; or

(2) Selection of online servers that block access to visual depictions of obscenity, child pornography, and material that is harmful to minors.

(d) A public library shall not be subject to civil liability for damages to any person as a result of the failure of any approved software program or approved online server to block access to visual depictions of obscenity, child pornography, and material that is harmful to minors. Nothing in

this Code section shall be deemed to abrogate or lessen any immunity or other protection against liability accorded to public libraries under an existing law or court decision.

(e) The Attorney General and the board of regents shall consult with and assist any public library in the development and implementation of an acceptable-use policy pursuant to this Code section.

(f)(1) No later than January 31, 2007, each public library shall submit a copy of the acceptable-use policy adopted pursuant to subsection (b) of this Code section to the board of regents. Such submission shall also include the identification of any software program or online server that is being utilized to block access to material in accordance with subsection (c) of this Code section.

(2) The board of regents shall review each acceptable-use policy and any subsequent revisions submitted pursuant to paragraph (3) of this subsection. If the board of regents determines after review that a policy or revision is not reasonably designed to achieve the requirements of this Code section, the board of regents shall provide written notice to the public library explaining the nature of such noncompliance and the public library shall have 30 days from the receipt of written notice to correct such noncompliance. The board of regents may provide an extension to the 30 day period on a showing of good cause.

(3) No revision of an acceptable-use policy which has been approved by the board of regents pursuant to paragraph (2) of this subsection shall be implemented until such revision is approved by the board of regents. If the board of regents fails to disapprove the revision within 60 days after the submission is received, the public library may proceed with the implementation of the revision.

(4) The board of regents shall be authorized to withhold a portion of state funding to a public library if the public library:

(A) Fails to timely submit an acceptable-use policy in accordance with paragraph (1) of this subsection;

(B) Submits an acceptable-use policy that is not reasonably designed to achieve the requirements of this Code section; or

(C) Is not enforcing or is substantially disregarding its acceptable-use policy.

(5) If the board of regents disapproves an acceptable-use policy of a public library or any revision thereof or notifies the public library that it is subject to the withholding of funding pursuant to paragraph (4) of this subsection, the public library may appeal the decision to the superior court of the county where the public library is situated.

(g)(1) The board of regents shall be responsible for conducting investigations and making written determinations as to whether a public library has violated the requirements of this Code section.

(2) If the board of regents determines that a public library is in violation of the requirements of this Code section, it shall direct the public library to acknowledge and correct the violation within 30 days and to develop a corrective plan for preventing future recurrences.

(h)(1) Notwithstanding any other provision of this Code section to the contrary, an administrator or supervisor of a public library, or designee thereof, may disable the software program or online server that is being utilized to block access to material for an adult or for a minor who provides written consent from his or her parent or guardian to enable access to the Internet for bona fide research or other lawful purpose.

(2) Nothing in paragraph (1) of this subsection shall be construed to permit any person to have access to material the character of which is illegal under federal or state law.

(i) A public library which is fulfilling the requirements of the federal Children's Internet Protection Act, P.L. 106-554, is not required to comply with this Code section.

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American Library Association. Libraries and the internet toolkit (available at <http://www.ala.org/advocacy/intfreedom/iftoolkits/litoolkit/internetusepolicies>).

Children's Internet Protection Act, 20 U.S.C. §§ 9134(f)(1)(A)(i) and (B)(ii); 47 U.S.C. §§ 254(h)(6)(B)(i) and (C)(i). (Click for [Text of the Children's Internet Protection Act](#))

Georgia Libraries Tech Center. Acceptable Use Policy 9-28-11. Available at <http://galibtech.org/?p=347>

Leggett, E.R. (2015). *Integrating the Web into everyday library services : a practical guide for librarians* . Lanham : Rowman & Littlefield. (Available at PINES (call number 020.2854678 L5136)).

Bertot, J.C., & Jaeger, P.T. (2011.) *Public libraries and the internet : roles, perspectives, and implications* . Santa Barbara, CA: Libraries Unlimited. (Available at PINES (call number: 025.042 P9761)).

McClure, C. R., & Jaeger, P. T. (2009). *Public libraries and internet service roles: Measuring and maximizing Internet services*. Chicago: American Library Association. (Available at PINES (call number: 021.0973 M)).

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 1. City Public Libraries
O.C.G.A. § 20-5-20. Maintenance of libraries

Any city, through its properly constituted municipal authorities, may raise by taxation from year to year and permanently appropriate money for the purpose of establishing, erecting, maintaining, or assisting in maintaining a public library. Any such sum or sums of money so appropriated shall be expended by and under the direction of a board of trustees of such public library elected by the city council of such city.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 1. City Public Libraries
O.C.G.A. § 20-5-21. Disbursement of appropriations

In any city in which an appropriation shall be made under this part, the money so appropriated shall be drawn from the treasury of such city on the warrant of the board of trustees of the public library and shall be paid out from time to time for salaries, purchase of books, and other necessary expenses of the library; and an itemized statement of the amounts so paid out shall be made annually to the mayor of such city and by him submitted to the properly constituted authorities of such city.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 1. City Public Libraries
O.C.G.A. § 20-5-22. Donations

The board of trustees of the public library of a city is authorized to accept and receive donations, either in money, land, or other property, for the purpose of erecting or assisting in the erection of suitable buildings for the use of such public library, for maintaining it, or for assisting in maintaining it.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 1. City Public Libraries
O.C.G.A. § 20-5-24. Powers of the city

The municipal government of any city in which an appropriation shall be made under this part shall have authority to enter into a legal and binding agreement to accept and receive any donation offered by any person or persons, and any such agreement shall be legal and binding upon the municipal government and its successors. Any agreements by the municipal government of a city to pay any sum or sums of money annually for the use of the public library shall be legal and binding on the city. Any ordinance or ordinances carrying such agreement into effect shall have the force and effect of law and be binding on the city during the time mentioned in the agreement and the ordinance.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-40. Establishment

(a) The governing authority of any county or municipality may establish a public library system. Any public library established pursuant to this part shall be a tax-exempt institution.

(b) A public library may be established in the following manner:

(1) By resolution or act, at the discretion of the governing authority, of any county or municipality, or any combination thereof;

(2) By approval of the voters of any county or municipality in a referendum election on the question of the establishment of a public library as provided in this paragraph. Upon a written petition containing 35 percent of the registered and qualified voters of a municipality or county being filed with the appropriate governing authority, the governing authority shall be required to hold and conduct a special referendum election for the purpose of submitting to the qualified voters of the municipality or county the question of whether or not a public library, as provided for in this part, shall be authorized. In the event a majority of the persons voting in the election vote in favor of the public library, then the governing authority of the municipality or county shall establish a public library as provided in this part. Otherwise, the governing authority shall have no authority to do so. Following the expiration of two years after any election is held which results in disapproval of a public library, as provided in this part, another election on this question shall be held if another petition, as provided in this paragraph, is filed with the appropriate governing authority; or

(3) By contractual agreement between the governing authorities of any county or municipality.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-41. Board of trustees

Each library system shall be governed by a board of trustees. Each system shall have a governing board of trustees but may have other affiliated boards of trustees for member libraries. The county board of library trustees shall exercise authority in a county system. The regional board of library trustees shall exercise authority in a multicounty system.

Current through the 2017 Regular Session

Georgia Public Library Service. (2016) *The Georgia public library trustee handbook*. (available at <http://www.georgialibraries.org/trustees/>)

Minor, M. A., & Georgia Public Library Service. (2012). *Constitutions and bylaws for Georgia public libraries: A handbook for system directors and library administrators*, pp. 5-8. (available at http://www.georgialibraries.org/lib/publiclibinfo/Constitutions_Bylaws-ga-pub-libs-02-2012.pdf. Print copies are also available through PINES (call number 027.4758 M6662)).

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-44. Compensation of board of trustees

Members of the board of trustees shall receive no compensation; provided, however, that such members may be reimbursed for any reasonable and necessary expenses incurred in the performance of library business or if stipulated in terms of any bequest or gift. Dues or fees for membership in local, state, regional, and national library associations may be paid from operating funds in accordance with the constitution and bylaws of the library system.

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Georgia Public Library Service. (2016) *The Georgia public library trustee handbook*. (available at <http://www.georgialibraries.org/trustees/>)

Minor, M. A., & Georgia Public Library Service. (2012). *Constitutions and bylaws for Georgia public libraries: A handbook for system directors and library administrators*, pp. 7-8. (available at http://www.georgialibraries.org/lib/publiclibinfo/Constitutions_Bylaws-ga-pub-libs-02-2012.pdf. Hard copies are also available through PINES (call number 027.4758 M6662)).

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-45. Directors; qualifications, duties and responsibilities

Every public library system shall have a director. Any person appointed as director of a public library system must hold at least a Grade 5(b) Librarian's Professional Graduate Certificate, as defined by the State Board for the Certification of Librarians; provided, however, that any person who was serving as acting director of a public library system as of July 1, 1984, shall be authorized to continue to serve as director. The director shall be appointed by the board of trustees and shall be the administrative head of the library system under the direction and review of the board. The director of a library system shall have duties and responsibilities which include but are not limited to the following:

- (1) To recommend for employment or termination other staff members, as necessary, in compliance with applicable laws and the availability of funds and to employ or terminate other staff members if so authorized by the library board;
- (2) To attend all meetings called by the Office of Public Library Services of the Board of Regents of the University System of Georgia or send a substitute authorized by the office director;
- (3) To prepare any local, state, or federal annual budgets;
- (4) To notify the board of trustees and the Office of Public Library Services of the Board of Regents of the University System of Georgia of any failure to comply with:
 - (A) Policies of the board;
 - (B) Criteria for state aid;
 - (C) State and federal rules and regulations; and
 - (D) All applicable local, state, or federal laws;
- (5) To administer the total library program, including all affiliated libraries, in accordance with policies adopted by the system board of trustees; and
- (6) To attend all meetings of the system board of trustees and affiliated boards of trustees or to designate a person to attend in his or her place.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-46. Reports

The library system shall make such reports as deemed necessary by local and state funding agencies. In every case at least an annual report of activities, income, and expenditures shall be filed with each funding agency.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-47. Constitutions and bylaws for library boards

(a) The board of trustees of each county and regional library shall have a written constitution and bylaws stating policy which shall be approved by the board. Such constitution and bylaws shall be drafted in accordance with the current edition of the Handbook on Constitutions, By-laws and Contracts for Georgia Public Libraries.

(b) Policies stated in the constitution of the county board may not be in conflict with the policies of the constitution of the regional board and state and federal laws and regulations. The constitution of the regional board shall not be in conflict with state and federal laws and regulations.

(c) All current constitutions and bylaws must be on file in the Office of Public Library Services of the Board of Regents of the University System of Georgia, and all amendments must be filed with the office immediately upon adoption.

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Minor, M. A., & Georgia Public Library Service. (2012). *Constitutions and bylaws for Georgia public libraries: A handbook for system directors and library administrators*. (available at http://www.georgialibraries.org/lib/publiclibinfo/Constitutions_Bylaws-ga-pub-lib-02-2012.pdf). Hard copies are also available through PINES (call number 027.4758 M6662).

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-48. Ownership of property used for library purposes

(a) A clear title in fee simple to an approved site on which a library facility is to be located shall be held by either the library board of trustees or the county or municipality. Title to property used for library purposes shall be vested in the library board of trustees or in that local agency which makes the major financial contribution toward construction costs. Notwithstanding any provision in this part to the contrary, any facility, the title to which currently is held by a nonprofit organization and which is now being operated by a public library board of trustees, may continue to be operated by that library board of trustees if the operation of that facility by the board of trustees meets the standards of the Office of Public Library Services of the Board of Regents of the University System of Georgia; and the title to that facility may remain in the hands of that nonprofit organization. When the composition of a library system is changed or when the library system is dissolved and the title is vested in the library board of trustees, the Office of Public Library Services of the Board of Regents of the University System of Georgia shall serve as mediator in determining ownership of property.

(b) Other property including, but not limited to, equipment and materials that were purchased with state, federal, or contract funds coming through the system budget shall be owned by the system board of trustees and shall be placed or transferred where it is most useful. Upon dissolution or significant structural change within the system, such property shall be divided on a pro rata basis according to the proportion of financial costs of property borne by the involved parties. The library system board of trustees shall furnish the financial and statistical information considered by the parties attempting to reach agreement. If the parties are unable to reach a mutually agreeable solution, the final decision of property ownership shall be made by the Office of Public Library Services of the Board of Regents of the University System of Georgia or its designee.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-49. Contracts and agreements of library board

Library systems are authorized to make and enter into such contracts or agreements as are deemed necessary and desirable. All such contracts or agreements entered into shall:

- (1) Detail the specific nature of the services, programs, facilities, arrangements, or properties to which such contracts or agreements are applicable;
- (2) Provide for the allocation of costs and other financial responsibilities;
- (3) Specify the respective rights, duties, obligations, and liabilities of the parties; and
- (4) Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriated to the proper effectuation and performance of the agreement.

No public or private library agency shall enter into any agreement itself, or jointly with any other library agency, to exercise any power or engage in any action prohibited by the Constitution or laws of this state.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-50. Bonding of library boards

Each library board which handles finances must keep a current bond for an adequate amount determined by the board of trustees and recorded in the minutes on the library director, the treasurer of the board of trustees, or other officials and employees authorized to handle funds. Proof of the bond for each board must be filed with the Renewal Application for State Aid.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-51. Dissolution of library systems

(a) A library system shall be dissolved by a reversal of procedures followed in its original organization. A majority of the board members in a majority of the counties must agree to the dissolution of the system. One county in a multicounty system may withdraw by a reversal of the procedure by which the county became a member.

(b) If the local constitution and bylaws or participating agreement does not specify a notification period for withdrawal, the proper notice shall be sent six months prior to the end of the state fiscal year. This notice must include reasons for the withdrawal and the method by which the decision was reached and must be sent to the chairman of the system board of trustees and the system library director. The Board of Regents of the University System of Georgia must be notified of the receipt of this letter of intent within five working days.

(c) Upon dissolution or withdrawal, no further state or federal grant funds shall be paid for or to the dissolving or withdrawing unit or units until such time as the unit or units reestablish the library or libraries pursuant to this part and meet eligibility requirements for such grant funds.

(d) A multicounty regional system may elect to expel a member county upon the following conditions:

(1) Failure of the county to maintain the agreed level of support to the regional system as in the most recent system-participating agreement; or

(2) Failure of the county to meet criteria which may jeopardize the system's eligibility for state or federal funds.

(e) If the system's constitution and bylaws or participating agreement fails to describe a notice period for expulsion, the proper notice shall be sent not less than six months prior to the end of the state fiscal year. This notice must be sent to the chairperson of the county board of trustees, all funding agencies party to the participating agreement, the system library director, and the Office of Public Library Services of the Board of Regents of the University System of Georgia.

(f) Upon total dissolution of a library system, all property shall be disposed of as provided in this part.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-52. Unlawful taking or destruction of materials

Any person who shall steal or unlawfully take or willfully or maliciously write upon, cut, tear, deface, disfigure, soil, obliterate, break, or destroy or who shall sell or buy or receive, knowing it to have been stolen, any book, pamphlet, document, newspaper, periodical, map, chart, picture, portrait, engraving, statue, coin, medal, equipment, specimen, recording, video product, microform, computer software, film, or other work of literature or object of art or the equipment necessary to its display or use belonging to or in the care of a public library shall be guilty of a misdemeanor.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-53. Failure to return materials

Any person who borrows from any public library any book, newspaper, magazine, manuscript, pamphlet, publication, recording, video product, microform, computer software, film, or other article or equipment necessary to its display or use belonging to or in the care of such public library under any agreement to return it and thereafter fails to return such book, newspaper, magazine, manuscript, pamphlet, publication, recording, video product, microform, computer software, film, or other article or equipment necessary to its display or use shall be given written notice, mailed to his last known address or delivered in person, to return such article or equipment within 15 days after the date of such notification. Such notice shall contain a copy of this Code section. If such person shall thereafter willfully and knowingly fail to return such article or equipment within 15 days, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or imprisonment for not more than 30 days and shall be required to return such article or equipment or provide reimbursement for the replacement cost of such article or equipment.

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Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-54. Concealing or removing books or other property

Any person who, without authority and with the intention of depriving the public library of the ownership of such property, willfully conceals a book or other public library property, while still on the premises of such public library, or willfully or without authority removes any book or other property from any public library shall be guilty of a misdemeanor; provided, however, that, if the replacement cost of the public library property is less than \$25.00, the punishment shall be a fine of not more than \$250.00. Proof of the willful concealment of any book or other public library property while still on the premises of such public library shall be prima-facie evidence of intent to violate this Code section.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-55. Civil liability of agents and employees

An agent or employee of a public library or of any department or office of the state or local government causing the arrest of any person pursuant to the provisions of this part shall not be held civilly liable for unlawful detention, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so arrested unless excessive or unreasonable force is used, whether such arrest takes place on the premises by such agent or employee; provided, however, that, in causing the arrest of such person, the public library or agent or employee of the public library had at the time of such arrest probable cause to believe that the person committed willful theft or concealment of books or other library property.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-56. Certification of librarians

All persons holding professional positions with the title of librarian must be certified by the State Board for the Certification of Librarians.

Current through the 2017 Regular Session

For information on the Board and online application materials, go to
<http://sos.ga.gov/index.php/licensing/plb/30>

1995 Ga. Op. Atty. Gen 189 (Oct. 13, 1995) (it is reasonable for state law to require public librarians to be graduates of an ALA accredited school.)

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-57. Forfeiture of state and federal aid

Any failure to comply with the provisions of this part shall result in the forfeiture of all state and federal library aid to the system.

Current through the 2017 Regular Session

Policies for Public Library State Grants Program. (2015) (available at http://www.georgialibraries.org/lib/stategrants_accounting/)

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-58. Existing library systems

A library system existing prior to July 1, 1984, shall have until July 1, 1989, to comply fully with the provisions of this part, and any provision to the contrary within Chapter 24 of Title 43, relating to libraries, shall be superseded by the provisions of this part.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 2. Local and Regional Public Libraries
Part 2. County and Regional Public Libraries
O.C.G.A. § 20-5-59. Applicability

This part shall not apply to any municipal public library.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 3. Interstate Library Compact
O.C.G.A. § 20-5-60. "State library agency" defined

As used in the Interstate Library Compact, "state library agency," with reference to this state, means the Office of Public Library Services of the Board of Regents of the University System of Georgia.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 3. Interstate Library Compact
O.C.G.A. § 20-5-61. Interstate Library Compact

The Interstate Library Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

--"INTERSTATE LIBRARY COMPACT--

--Article I. Policy and Purpose.--

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis, and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

--Article II. Definitions.--

As used in this compact:

(a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.

(b) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

(c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

--Article III. Interstate Library Districts.--

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto

remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

1. Undertake, administer and participate in programs or arrangements for securing, lending or servicing of books and other publications, and other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.
2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same.
3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.
4. Employ professional, technical, clerical and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the in-service training of such personnel.
5. Sue and be sued in any court of competent jurisdiction.
6. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.
7. Construct, maintain and operate a library, including any appropriate branches thereof.

8. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

--Article IV. Interstate Library Districts, Governing Board.--

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provisions therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

--Article V. State Library Agency Cooperation.--

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

--Article VI. Library Agreements.--

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

1. Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable.
2. Provide for the allocation of costs and other financial responsibilities.
3. Specify the respective rights, duties, obligations and liabilities of the parties.

4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved and approved in accordance with Article VII of this compact.

--Article VII. Approval of Library Agreements.--

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this Article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

--Article VIII. Other Laws Applicable.--

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

--Article IX. Appropriations and Aid.--

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

--Article X. Compact Administrator.--

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

--Article XI. Entry into Force and Withdrawal.--

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

--Article XII. Construction and Severability.--

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto,

the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 3. Interstate Library Compact
O.C.G.A. § 20-5-62. Limitations

No municipality, county, or other political subdivision of this state shall be a party to a library agreement which provides for the construction or maintenance of a library pursuant to Article III, subdivision (c), paragraph (7) of the compact, or pledge its credit in support of such a library, or contribute to the capital financing thereof, except after compliance with any laws applicable to such municipalities, counties, or political subdivisions relating to or governing capital outlay and the pledging of credit.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 3. Interstate Library Compact
O.C.G.A. § 20-5-63. Interstate library districts lying partly within this State

An interstate library district lying partly within this state may claim and be entitled to receive state aid in support of any of its functions to the same extent and in the same manner as such functions are eligible for support when carried on by entities wholly within this state. For the purposes of computing and apportioning state aid to an interstate library district, this state will consider that portion of the area which lies within this state as an independent entity for the performance of the aided function or functions and compute and apportion the aid accordingly. Subject to any applicable laws of this state, such a district also may apply for and be entitled to receive any federal aid for which it may be eligible.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 3. Interstate Library Compact
O.C.G.A. § 20-5-64. Appointment of compact administrator

The board of regents shall appoint an officer of this state to be the compact administrator pursuant to Article X of the compact. The board of regents shall also appoint one or more deputy compact administrators pursuant to such article.

Current through the 2017 Regular Session

Title 20. Education
Chapter 5. Libraries
Article 3. Interstate Library Compact
O.C.G.A. § 20-5-65. Withdrawal from the compact

In the event of withdrawal from the compact, the board of regents shall send and receive any notices required by Article XI(b) of the compact.

Current through the 2017 Regular Session

Title 24. Evidence
Chapter 12. Medical Information
Article 4. Library and Veterinary Records
O.C.G.A. § 24-12-30. Confidential nature of library records

(a) Circulation and similar records of a library which identify the user of library materials shall not be public records but shall be confidential and shall not be disclosed except:

- (1) To members of the library staff in the ordinary course of business;
- (2) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or
- (3) Upon appropriate court order or subpoena.

(b) Any disclosure authorized by subsection (a) of this Code section or any unauthorized disclosure of materials made confidential by subsection (a) of this Code section shall not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subsection (a) of this Code section shall not be liable therefor.

Current through the 2017 Regular Session

This statute supersedes former confidentiality statute (O.C.G.A. § 24-9-46). The text has not changed, it is merely a relocation of the statute within the code.

American Library Association, *Questions and Answers on Privacy and Confidentiality*

<http://www.ala.org/Template.cfm?Section=interpretations&Template=/ContentManagement/ContentDisplay.cfm&ContentID=15347> (accessed November 6, 2017).

Minor, M.A. & Georgia Public Library Service. (2013). *Legal issues in Georgia's public libraries* (2nd ed.). pp. 61-62, 66. (Available in Directors' Knowledge Base for Georgia Public Library System Directors).

Minor, M.A. & Georgia Public Library Service (2016). *Library Confidential: Understanding the Scope and Reasons for Patron Privacy*. Presented April 12, 2016. Available from Georgia Learning Center:
<http://learning.georgialibraries.org/?s=marti&search-type=default>

Title 36. Local Government
Provisions Applicable to Municipal Corporations Only
Chapter 34. Powers of Municipal Corporations Generally
O.C.G.A. § 36-34-5.1. Municipal corporations authorized to enter into leases for purpose of providing library service

Notwithstanding any provision of law to the contrary, each municipal corporation of this state is authorized, in the discretion of its governing authority, to enter into valid and binding lease agreements with nonprofit corporations, classified as public foundations (not private foundations) under the United States Internal Revenue Code, for the stated purpose of providing library services for any period of time not to exceed 15 years.

Current through the 2017 Regular Session

Title 36. Local Government
Provisions Applicable to Counties and Municipal Corporations
Chapter 70. Coordinated and Comprehensive Planning and Service Delivery by Counties and
Municipalities
Article 1. Planning
O.C.G.A. § 36-70-2. Definitions

As used in this chapter, the term:

(1) “Comprehensive plan” means any plan by a county or municipality covering such county or municipality proposed or prepared pursuant to the minimum standards and procedures for preparation of comprehensive plans and for implementation of comprehensive plans established by the department.

(2) “Coordinated and comprehensive planning” means planning by counties and municipalities undertaken in accordance with the minimum standards and procedures for preparation of plans, for implementation of plans, and for participation in the coordinated and comprehensive planning process, as established by the department.

(3) “County” means any county of this state.

(4) “Department” means the Department of Community Affairs of the State of Georgia created pursuant to Article 1 of Chapter 8 of Title 50.

(5) “Governing authority” or “governing body” means the board of commissioners of a county, sole commissioner of a county, council, commissioners, or other governing authority for a county or municipality.

(5.1) “Inactive municipality” means any municipality which has not for a period of three consecutive calendar years carried out any of the following activities:

(A) The levying or collecting of any taxes or fees;

(B) The provision of any of the following governmental services: water; sewage; garbage collection; police protection; fire protection; or library; or

(C) The holding of a municipal election.

(5.2) “Local government” means any county as defined in paragraph (3) of this Code section or any municipality as defined in paragraph (7) of this Code section. The term does not include any school

district of this state nor any sheriff, clerk of the superior court, judge of the probate court, or tax commissioner or the office, personnel, or services provided by such elected officials.

(5.3) "Mechanisms" includes, but is not limited to, intergovernmental agreements, ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997, or executed thereafter.

(6) "Minimum standards and procedures" means the minimum standards and procedures for preparation of comprehensive plans, for implementation of comprehensive plans, and for participation in the coordinated and comprehensive planning process, as established by the department, in accordance with Article 1 of Chapter 8 of Title 50. Minimum standards and procedures shall include any standards and procedures for such purposes prescribed by a regional commission for counties and municipalities within its region and approved in advance by the department.

(7) "Municipality" means any municipal corporation of the state and any consolidated city-county government of the state.

(8) "Region" means the territorial area within the boundaries of operation for any regional commission, as such boundaries shall be established from time to time by the board of the department.

(9) "Regional commission" means a regional commission established under Article 2 of Chapter 8 of Title 50.

Current through the 2017 Regular Session

Title 36. Local Government
Provisions Applicable to Counties and Municipal Corporations
Chapter 71. Development Impact Fees
O.C.G.A. § 36-71-2. Definitions

As used in this chapter, the term:

- (1) "Capital improvement" means an improvement with a useful life of ten years or more, by new construction or other action, which increases the service capacity of a public facility.
- (2) "Capital improvements element" means a component of a comprehensive plan adopted pursuant to Chapter 70 of this title which sets out projected needs for system improvements during a planning horizon established in the comprehensive plan, a schedule of capital improvements that will meet the anticipated need for system improvements, and a description of anticipated funding sources for each required improvement.
- (3) "Comprehensive plan" has the same meaning as provided for in Chapter 70 of this title.
- (4) "Developer" means any person or legal entity undertaking development.
- (5) "Development" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, any of which creates additional demand and need for public facilities.
- (6) "Development approval" means any written authorization from a municipality or county which authorizes the commencement of construction.
- (7) "Development exaction" means a requirement attached to a development approval or other municipal or county action approving or authorizing a particular development project, including but not limited to a rezoning, which requirement compels the payment, dedication, or contribution of goods, services, land, or money as a condition of approval.
- (8) "Development impact fee" means a payment of money imposed upon development as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve new growth and development.
- (9) "Encumber" means to legally obligate by contract or otherwise commit to use by appropriation or other official act of a municipality or county.

(10) "Feepayer" means that person who pays a development impact fee or his successor in interest where the right or entitlement to any refund of previously paid development impact fees which is required by this chapter has been expressly transferred or assigned to the successor in interest. In the absence of an express transfer or assignment of the right or entitlement to any refund of previously paid development impact fees, the right or entitlement shall be deemed "not to run with the land."

(11) "Governmental entity" means any water authority, water and sewer authority, or water or wastewater authority created by or pursuant to an Act of the General Assembly of Georgia.

(12) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities in terms of demand to capacity ratios, the comfort and convenience of use or service of public facilities, or both.

(13) "Present value" means the current value of past, present, or future payments, contributions or dedications of goods, services, materials, construction, or money.

(14) "Project" means a particular development on an identified parcel of land.

(15) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or system improvement and the physical location of the improvement on site or off site shall not be considered determinative of whether an improvement is a project improvement or a system improvement. If an improvement or facility provides or will provide more than incidental service or facilities capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement. No improvement or facility included in a plan for public facilities approved by the governing body of the municipality or county shall be considered a project improvement.

(16) "Proportionate share" means that portion of the cost of system improvements which is reasonably related to the service demands and needs of the project within the defined service area.

(17) "Public facilities" means:

(A) Water supply production, treatment, and distribution facilities;

(B) Waste-water collection, treatment, and disposal facilities;

(C) Roads, streets, and bridges, including rights of way, traffic signals, landscaping, and any local components of state or federal highways;

(D) Storm-water collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;

(E) Parks, open space, and recreation areas and related facilities;

(F) Public safety facilities, including police, fire, emergency medical, and rescue facilities; and

(G) Libraries and related facilities.

(18) "Service area" means a geographic area defined by a municipality, county, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles or both.

(19) "System improvement costs" means costs incurred to provide additional public facilities capacity needed to serve new growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorneys' fees, and expert witness fees), and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvement element, and administrative costs, provided that such administrative costs shall not exceed 3 percent of the total amount of the costs. Projected interest charges and other finance costs may be included if the impact fees are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued by or on behalf of the municipality or county to finance the capital improvements element but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

(20) "System improvements" means capital improvements that are public facilities and are designed to provide service to the community at large, in contrast to "project improvements."

Current through the 2017 Regular Session

Title 36. Local Government
Provisions Applicable to Counties and Municipal Corporations
Chapter 76. Expedited Franchising of Cable and Video Services
O.C.G.A. § 36-76-9. Demarcation point service outlet; service to schools and libraries

A cable service provider or video service provider shall, upon written request by a municipality or county, install, at no charge, one service outlet to a demarcation point located on the outside of any designated municipal or county building or multibuilding complex, provided such building demarcation point is within 125 feet from the cable service provider or video service provider's activated distribution point of connection. A cable service provider or video service provider shall not be required to extend its facilities beyond the appropriate demarcation point located outside the building or to perform any inside wiring. The cable service provider or video service provider shall provide complimentary basic cable service or video service to public schools and public libraries over that one service outlet free of charge, which service shall not be used for commercial purposes. The cable service provider or video service provider shall provide complimentary basic cable service or video service to public buildings other than public schools and public libraries only to the extent such a complimentary service arrangement existed under the terms of a local franchise agreement in effect as of January 1, 2007, and shall continue only until the local franchise agreement would have expired under its own terms; provided, however, that such provider shall not be precluded from providing such additional complimentary service at its option. The municipality or county may not receive service at the same building from more than one cable service provider or video service provider at a time under this Code section.

Current through the 2017 Regular Session

Title 42. Penal Institutions
Chapter 1. General Provisions

Article 2. Sexual Offender Registration Review Board

O.C.G.A. § 42-1-15. Restrictions on residence of or loitering by registered sex offender for acts committed after July 1, 2008; employment of sexually dangerous predator; civil liability or criminal prosecution of entity other than individual required to register

(a) As used in this Code section, the term:

(1) "Individual" means a person who is required to register pursuant to Code Section 42-1-12.

(2) "Lease" means a right of occupancy pursuant to a written and valid lease or rental agreement.

(3) "Minor" means any person who is under 18 years of age.

(4) "Volunteer" means to engage in an activity in which one could be, and ordinarily would be, employed for compensation, and which activity involves working with, assisting, or being engaged in activities with minors; provided, however, that such term shall not include participating in activities limited to persons who are 18 years of age or older or participating in worship services or engaging in religious activities or activities at a place of worship that do not include supervising, teaching, directing, or otherwise participating with minors who are not supervised by an adult who is not an individual required to register pursuant to Code Section 42-1-12.

(b) On and after July 1, 2008, no individual shall reside within 1,000 feet of any child care facility, church, school, or area where minors congregate if the commission of the act for which such individual is required to register occurred on or after July 1, 2008. Such distance shall be determined by measuring from the outer boundary of the property on which the individual resides to the outer boundary of the property of the child care facility, church, school, or area where minors congregate at their closest points.

(c)(1) On and after July 1, 2008, no individual shall be employed by or volunteer at any child care facility, school, or church or by or at any business or entity that is located within 1,000 feet of a child care facility, a school, or a church if the commission of the act for which such individual is required to register occurred on or after July 1, 2008. Such distance shall be determined by measuring from the outer boundary of the property of the location at which such individual is employed or volunteers to the outer boundary of the child care facility, school, or church at their closest points.

(2) On or after July 1, 2008, no individual who is a sexually dangerous predator shall be employed by or volunteer at any business or entity that is located within 1,000 feet of an area where minors congregate if the commission of the act for which such individual is required to register occurred on or after July 1,

2008. Such distance shall be determined by measuring from the outer boundary of the property of the location at which the sexually dangerous predator is employed or volunteers to the outer boundary of the area where minors congregate at their closest points.

(d) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual to loiter, as prohibited by Code Section 16-11-36, at any child care facility, school, or area where minors congregate.

(e)(1) If an individual owns or leases real property and resides on such property and a child care facility, church, school, or area where minors congregate thereafter locates itself within 1,000 feet of such property, or if an individual has established employment at a location and a child care facility, church, or school thereafter locates itself within 1,000 feet of such employment, or if a sexual predator has established employment and an area where minors congregate thereafter locates itself within 1,000 feet of such employment, such individual shall not be guilty of a violation of subsection (b) or (c) of this Code section, as applicable, if such individual successfully complies with subsection (f) of this Code section.

(2) An individual owning or leasing real property and residing on such property or being employed within 1,000 feet of a prohibited location, as specified in subsection (b) or (c) of this Code section, shall not be guilty of a violation of this Code section if such individual had established such property ownership, leasehold, or employment prior to July 1, 2008, and such individual successfully complies with subsection (f) of this Code section.

(f)(1) If an individual is notified that he or she is in violation of subsection (b) or (c) of this Code section, and if such individual claims that he or she is exempt from such prohibition pursuant to subsection (e) of this Code section, such individual shall provide sufficient proof demonstrating his or her exemption to the sheriff of the county where the individual is registered within ten days of being notified of any such violation.

(2) For purposes of providing proof of residence, the individual may provide a driver's license, government issued identification, or any other documentation evidencing where the individual's habitation is fixed. For purposes of providing proof of property ownership, the individual shall provide a copy of his or her warranty deed, quitclaim deed, or voluntary deed, or other documentation evidencing property ownership.

(3) For purposes of providing proof of a leasehold, the individual shall provide a copy of the applicable lease agreement. Leasehold exemptions shall only be for the duration of the executed lease.

(4) For purposes of providing proof of employment, the individual may provide an Internal Revenue Service Form W-2, a pay check, or a notarized verification of employment from the individual's

employer, or other documentation evidencing employment. Such employment documentation shall evidence the location in which such individual actually carries out or performs the functions of his or her job.

(5) Documentation provided pursuant to this subsection may be required to be date specific, depending upon the individual's exemption claim.

(g) Any individual who knowingly violates this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor more than 30 years.

(h) Nothing in this Code section shall create, either directly or indirectly, any civil cause of action against or result in criminal prosecution of any person, firm, corporation, partnership, trust, or association other than an individual required to be registered under Code Section 42-1-12.

Current through the 2017 Regular Session

A public library is "a place where minors congregate." O.C.G.A. 42-1-12(a)(3).

Minor, M.A. & Georgia Public Library Service. (2013). *Legal issues in Georgia's public libraries* (2nd ed.). pp. 3-5. (Available in Directors' Knowledge Base for Georgia Public Library System Directors).

Title 43. Professions and Businesses
Chapter 24. Librarians
O.C.G.A. § 43-24-1. Definitions

As used in this chapter, the term:

- (1) "Board" means the State Board for the Certification of Librarians.
- (2) "Librarian" means a person with specialized training as identified in this chapter and in the administrative rules and regulations applicable to this chapter and possessing the necessary training and qualifications to plan, organize, communicate, and administer successfully the use of the library's materials and services.
- (3) "Library" means an organization providing services and informational materials in a variety of formatting, including, but not limited to, books, films, tapes, microforms, and periodicals and having no fewer than 3,000 items which have been selected, acquired, and organized for dissemination.

Current through the 2017 Regular Session

Title 43. Professions and Businesses

Chapter 24. Librarians

O.C.G.A. § 43-24-2. State Board for the Certification of Librarians; creation; membership; appointment; terms of office; expenses; vacancies

(a) The State Board for the Certification of Librarians is created, to consist of six persons as follows:

(1) Three librarians certified under this chapter, including one public librarian, one special librarian, and one other currently practicing librarian, and one person who shall be a trustee of a public library;

(2) A member to be appointed from the public at large who shall have no connection whatsoever with the library profession; and

(3) The director of public library services of the Board of Regents of the University System of Georgia.

(b) The members referred to in paragraphs (1) and (2) of subsection (a) of this Code section shall be appointed by the Governor and shall be confirmed by the Senate.

(c) The terms of the five members appointed pursuant to paragraphs (1) and (2) of subsection (a) of this Code section shall be five years. The term of the director of public library services of the Board of Regents of the University System of Georgia shall be coextensive with the term of office of this position.

(d) Members of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

(e) If there is a vacancy on the board, the Governor shall appoint a member to serve the unexpired term.

Current through the 2017 Regular Session

Title 43. Professions and Businesses
Chapter 24. Librarians
O.C.G.A. § 43-24-3. Jurisdiction of Division Director

The same jurisdiction, duties, powers, and authority which the division director has with reference to other professional licensing boards is conferred upon that director with respect to the board.

Current through the 2017 Regular Session

Title 43. Professions and Businesses

Chapter 24. Librarians

O.C.G.A. § 43-24-4. Only licensed librarians to be employed; exceptions

Any public library serving a political subdivision or subdivisions having a population of over 5,000 according to the United States decennial census of 1970 or any future such census and every library operated by the state or its authority, including libraries of institutions of higher learning, shall not employ in the position of librarian a person who does not hold a librarian's certificate issued by the board. No public funds shall be paid to any library failing to comply with this chapter, provided that nothing in this chapter shall apply to law libraries of counties and municipalities, to libraries of public elementary and high schools, or to libraries of the University System of Georgia.

Current through the 2017 Regular Session

Title 43. Professions and Businesses
Chapter 24. Librarians
O.C.G.A. § 43-24-5. Certificates; grades; examinations

The board shall have authority to establish grades of certificates for librarians, to prescribe and hold examinations, to require submission of credentials to establish the qualifications of those seeking certificates as librarians, and to issue certificates of librarianship to qualified persons in accordance with such rules and regulations as it may prescribe.

Current through the 2017 Regular Session

Title 43. Professions and Businesses

Chapter 24. Librarians

O.C.G.A. § 43-24-6. Applications for certificates; fees; renewals; duplicate certificates

- (a) All applicants for a librarian's certificate shall file an application with the division director, accompanied by a fee which shall be set by the board.
- (b) Each certificate issued shall be renewable biennially.
- (c) Any certified librarian requesting a duplicate certificate shall be charged a fee as shall be set by the board.

Current through the 2017 Regular Session

Title 43. Professions and Businesses
Chapter 24. Librarians
O.C.G.A. § 43-24-7. Continuing Education

(a) The board shall be authorized to require persons holding a certificate under this chapter to complete board approved continuing education of not less than ten hours biennially as a condition of certificate renewal. The board shall be authorized to approve programs offered by professional associations, educational institutions, government agencies, and bibliographic utilities, and others as it deems appropriate.

(b) The board shall be authorized to waive the continuing education requirement in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate.

(c) The board shall be authorized to promulgate rules and regulations to implement and ensure compliance with the requirements of this Code section.

(d) The board shall have the authority to appoint a committee or committees composed of certified librarians, as it deems appropriate, to administer, implement, and otherwise carry out the provisions of this chapter relating to continuing education.

Current through the 2017 Regular Session

Georgia Smokefree Air Act
O.C.G.A. §§ 31-12A-1 through 31-12A-13

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-1. Short title

This chapter shall be known and may be cited as the “Georgia Smokefree Air Act of 2005.”

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-2. Definitions

As used in this chapter, the term:

- (1) “Bar” means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets.
- (2) “Business” means any corporation, sole proprietorship, partnership, limited partnership, limited liability corporation, limited liability partnership, professional corporation, enterprise, franchise, association, trust, joint venture, or other entity, whether for profit or nonprofit.
- (3) “Employee” means an individual who is employed by a business in consideration for direct or indirect monetary wages or profit.
- (4) “Employer” means an individual or a business that employs one or more individuals.
- (5) “Enclosed area” means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.
- (6) “Health care facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, homes for the chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities. This definition shall not include long-term care facilities as defined in paragraph (3) of Code Section 31-8-81.

(7) "Infiltrate" means to permeate an enclosed area by passing through its walls, ceilings, floors, windows, or ventilation systems to the extent that an individual can smell secondhand smoke.

(8) "Local governing authority" means a county or municipal corporation of the state.

(9) "Place of employment" means an enclosed area under the control of a public or private employer that employees utilize during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, and hallways. A private residence is not a place of employment unless it is used as a licensed child care, adult day-care, or health care facility. This term shall not include vehicles used in the course of employment.

(10) "Public place" means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, educational facilities, health care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. A private residence is not a public place unless it is used as a licensed child care, adult day-care, or health care facility.

(11) "Restaurant" means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term shall include a bar area within any restaurant.

(12) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(13) "Secondhand smoke" means smoke emitted from lighted, smoldering, or burning tobacco when the person smoking is not inhaling, smoke emitted at the mouthpiece during puff drawing, and smoke exhaled by the person smoking.

(14) "Service line" means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

(15) "Shopping mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

(16) "Smoking" means inhaling, exhaling, burning, or carrying any lighted tobacco product including cigarettes, cigars, and pipe tobacco.

(17) "Smoking area" means a separately designated enclosed room which need not be entered by an employee in order to conduct business that is designated as a smoking area and, when so designated as a smoking area, shall not be construed as to deprive employees of a nonsmoking lounge, waiting area, or break room.

(18) "Sports arena" means enclosed stadiums and enclosed sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-3. Smoking prohibited in state buildings

Smoking shall be prohibited in all enclosed facilities of, including buildings owned, leased, or operated by, the State of Georgia, its agencies and authorities, and any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special Act of the General Assembly or by ordinance or resolution of the governing body of a county or municipal corporation individually or jointly with other political subdivisions or municipalities of the state.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-4. Smoking prohibited in enclosed public places

Except as otherwise specifically authorized in Code Section 31-12A-6, smoking shall be prohibited in all enclosed public places in this state.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-5. Smoking prohibited in enclosed area within places of employment

(a) Except as otherwise specifically provided in Code Section 31-12A-6, smoking shall be prohibited in all enclosed areas within places of employment, including, but not limited to, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, and all other enclosed facilities.

(b) Such prohibition on smoking shall be communicated to all current employees by July 1, 2005, and to each prospective employee upon their application for employment.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-6. Areas exempt from smoking prohibitions

(a) Notwithstanding any other provision of this chapter, the following areas shall be exempt from the provisions of Code Sections 31-12A-4 and 31-12A-5:

(1) Private residences, except when used as a licensed child care, adult day-care, or health care facility;

(2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20 percent of rooms rented to guests in a hotel or motel may be so designated;

(3) Retail tobacco stores, provided that secondhand smoke from such stores does not infiltrate into areas where smoking is prohibited under the provisions of this chapter;

(4) Long-term care facilities as defined in paragraph (3) of Code Section 31-8-81;

(5) Outdoor areas of places of employment;

(6) Smoking areas in international airports, as designated by the airport operator;

(7) All workplaces of any manufacturer, importer, or wholesaler of tobacco products, of any tobacco leaf dealer or processor, all tobacco storage facilities, and any other entity set forth in Code Section 10-13A-2;

(8) Private and semiprivate rooms in health care facilities licensed under this title that are occupied by one or more persons, all of whom have written authorization by their treating physician to smoke;

(9) Bars and restaurants, as follows:

(A) All bars and restaurants to which access is denied to any person under the age of 18 and that do not employ any individual under the age of 18; or

(B) Private rooms in restaurants and bars if such rooms are enclosed and have an air handling system independent from the main air handling system that serves all other areas of the building and all air within the private room is exhausted directly to the outside by an exhaust fan of sufficient size;

(10) Convention facility meeting rooms and public and private assembly rooms contained within a convention facility not wholly or partially owned, leased, or operated by the State of Georgia, its

agencies and authorities, or any political subdivision of the state, municipal corporation, or local board or authority created by general, local, or special Act of the General Assembly while these places are being used for private functions and where individuals under the age of 18 are prohibited from attending or working as an employee during the function;

(11) Smoking areas designated by an employer which shall meet the following requirements:

(A) The smoking area shall be located in a nonwork area where no employee, as part of his or her work responsibilities, shall be required to enter, except such work responsibilities shall not include custodial or maintenance work carried out in the smoking area when it is unoccupied;

(B) Air handling systems from the smoking area shall be independent from the main air handling system that serves all other areas of the building and all air within the smoking area shall be exhausted directly to the outside by an exhaust fan of sufficient size and capacity for the smoking area and no air from the smoking area shall be recirculated through or infiltrate other parts of the building; and

(C) The smoking area shall be for the use of employees only.

The exemption provided for in this paragraph shall not apply to restaurants and bars;

(12) Common work areas, conference and meeting rooms, and private offices in private places of employment, other than medical facilities, that are open to the general public by appointment only; except that smoking shall be prohibited in any public reception area of such place of employment; and

(13) Private clubs, military officer clubs, and noncommissioned officer clubs.

(b) In order to qualify for exempt status under subsection (a) of this Code section, any area described in subsection (a) of this Code section, except for areas described in paragraph (1) of subsection (a) of this Code section, shall post conspicuously at every entrance a sign indicating that smoking is permitted.

Title 31. Health

Chapter 12A. Smokefree Air

O.C.G.A. § 31-12A-7. Declaration of area as nonsmoking place

Notwithstanding any other provision of this chapter, an owner, operator, manager, or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of subsection (a) of Code Section 31-12A-8 is posted.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-8. “No Smoking” signs; removal of ashtrays

(a) “No Smoking” signs or the international “No Smoking” symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it may be clearly and conspicuously posted by the owner, operator, manager, or other person in control in every public place and place of employment where smoking is prohibited by this chapter.

(b) All ashtrays shall be removed from any area where smoking is prohibited by this chapter by the owner, operator, manager, or other person in control of the area, unless such ashtray is permanently affixed to an existing structure.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A § 31-12A-9. Continuing programs to explain and clarify chapter

The Department of Public Health and the agency designated by each local governing authority in this state may engage in a continuing program to explain and clarify the purposes and requirements of this chapter to citizens affected by it and to guide owners, operators, and managers in their compliance with it. The program may include print or electronic publication of a brochure for affected businesses and individuals explaining the provisions of this chapter.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-10. Authority to enforce compliance

The Department of Public Health and the county boards of health and their duly authorized agents are authorized and empowered to enforce compliance with this chapter and the rules and regulations adopted and promulgated under this chapter and, in connection therewith, to enter upon and inspect the premises of any establishment or business at any reasonable time and in a reasonable manner, as provided in Article 2 of Chapter 5 of this title.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-11. Annual report for local operating procedures

The county boards of health may annually request other governmental and educational agencies having facilities within the area of the local government to establish local operating procedures in cooperation and compliance with this chapter.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-12. Cumulative nature of chapter

This chapter shall be cumulative to and shall not prohibit the enactment of any other general or local laws, rules, and regulations of state or local governing authorities or local ordinances prohibiting smoking which are more restrictive than this chapter or are not in direct conflict with this chapter.

Title 31. Health
Chapter 12A. Smokefree Air
O.C.G.A. § 31-12A-13. Construction and application of chapter

- (a) This chapter shall not be construed to permit smoking where it is otherwise restricted by other applicable laws.
- (b) Nothing in this chapter shall be construed as to repeal the provisions of Code Section 16-12-2.
- (c) This chapter shall be liberally construed so as to further its purposes.

Current through the 2017 Regular Session

Georgia Department of Public Health (2015). Georgia Smokefree Air Act of 2005: A guide for business owners and employees (available at https://dph.georgia.gov/sites/dph.georgia.gov/files/SmokeFree%20Act_Booklet.pdf)

Georgia Department of Public Health. Georgia Smokefree Air Act of 2005: Factsheet (available at https://dph.georgia.gov/sites/dph.georgia.gov/files/SmokeFree%20Act_FactSheet.pdf)

Open Meetings Act

Title 50. State Government

Chapter 14. Open and Public Meetings

O.C.G.A. § 50-14-1. Meetings of departments, agencies, boards, etc., to be open to public; notice of meetings and agenda

(a) As used in this chapter, the term:

(1) "Agency" means:

(A) Every state department, agency, board, bureau, office, commission, public corporation, and authority;

(B) Every county, municipal corporation, school district, or other political subdivision of this state;

(C) Every department, agency, board, bureau, office, commission, authority, or similar body of each such county, municipal corporation, or other political subdivision of the state;

(D) Every city, county, regional, or other authority established pursuant to the laws of this state; and

(E) Any nonprofit organization to which there is a direct allocation of tax funds made by the governing body of any agency as defined in this paragraph which constitutes more than 33 1/3 percent of the funds from all sources of such organization; provided, however, that this subparagraph shall not include hospitals, nursing homes, dispensers of pharmaceutical products, or any other type organization, person, or firm furnishing medical or health services to a citizen for which they receive reimbursement from the state whether directly or indirectly; nor shall this term include a subagency or affiliate of such a nonprofit organization from or through which the allocation of tax funds is made.

(2) "Executive session" means a portion of a meeting lawfully closed to the public.

(3)(A) "Meeting" means :

(i) The gathering of a quorum of the members of the governing body of an agency at which any official business, policy, or public matter of the agency is formulated, presented, discussed, or voted upon; or

(ii) The gathering of a quorum of any committee of the members of the governing body of an agency or a quorum of any committee created by the governing body, at which any official business, policy, or public matter of the committee is formulated, presented, discussed, or voted upon.

(B) Meeting shall not include:

(i) The gathering of a quorum of the members of a governing body or committee for the purpose of making inspections of physical facilities or property under the jurisdiction of such agency at which no other official business of the agency is to be discussed or official action is to be taken;

(ii) The gathering of a quorum of the members of a governing body or committee for the purpose of attending state-wide, multijurisdictional, or regional meetings to participate in seminars or courses of training on matters related to the purpose of the agency or to receive or discuss information on matters related to the purpose of the agency at which no official action is to be taken by the members;

(iii) The gathering of a quorum of the members of a governing body or committee for the purpose of meeting with officials of the legislative or executive branches of the state or federal government at state or federal offices and at which no official action is to be taken by the members;

(iv) The gathering of a quorum of the members of a governing body of an agency for the purpose of traveling to a meeting or gathering as otherwise authorized by this subsection so long as no official business, policy, or public matter is formulated, presented, discussed, or voted upon by the quorum; or

(v) The gathering of a quorum of the members of a governing body of an agency at social, ceremonial, civic, or religious events so long as no official business, policy, or public matter is formulated, presented, discussed, or voted upon by the quorum.

This subparagraph's exclusions from the definition of the term meeting shall not apply if it is shown that the primary purpose of the gathering or gatherings is to evade or avoid the requirements for conducting a meeting while discussing or conducting official business.

(b)(1) Except as otherwise provided by law, all meetings shall be open to the public. All votes at any meeting shall be taken in public after due notice of the meeting and compliance with the posting and agenda requirements of this chapter.

(2) Any resolution, rule, regulation, ordinance, or other official action of an agency adopted, taken, or made at a meeting which is not open to the public as required by this chapter shall not be binding. Any action contesting a resolution, rule, regulation, ordinance, or other formal action of an agency based on an alleged violation of this provision shall be commenced within 90 days of the date such contested action was taken or, if the meeting was held in a manner not permitted by law, within 90 days from the date the party alleging the violation knew or should have known about the alleged violation so long as such date is not more than six months after the date the contested action was taken.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, any action under this chapter contesting a zoning decision of a local governing authority shall be commenced within the time allowed by law for appeal of such zoning decision.

(c) The public at all times shall be afforded access to meetings declared open to the public pursuant to subsection (b) of this Code section. Visual and sound recording during open meetings shall be permitted.

(d)(1) Every agency subject to this chapter shall prescribe the time, place, and dates of regular meetings of the agency. Such information shall be available to the general public and a notice containing such information shall be posted at least one week in advance and maintained in a conspicuous place available to the public at the regular place of an agency or committee meeting subject to this chapter as well as on the agency's website, if any. Meetings shall be held in accordance with a regular schedule, but nothing in this subsection shall preclude an agency from canceling or postponing any regularly scheduled meeting.

(2) For any meeting, other than a regularly scheduled meeting of the agency for which notice has already been provided pursuant to this chapter, written or oral notice shall be given at least 24 hours in advance of the meeting to the legal organ in which notices of sheriff's sales are published in the county where regular meetings are held or at the option of the agency to a newspaper having a general circulation in such county at least equal to that of the legal organ; provided, however, that, in counties where the legal organ is published less often than four times weekly, sufficient notice shall be the posting of a written notice for at least 24 hours at the place of regular meetings and, upon written request from any local broadcast or print media outlet whose place of business and physical facilities are located in the county, notice by telephone, facsimile, or e-mail to that requesting media outlet at least 24 hours in advance of the called meeting. Whenever notice is given to a legal organ or other newspaper, that publication shall immediately or as soon as practicable make the information available upon inquiry to any member of the public. Upon written request from any local broadcast or print media outlet, a copy of the meeting's agenda shall be provided by facsimile, e-mail, or mail through a self-addressed, stamped envelope provided by the requestor.

(3) When special circumstances occur and are so declared by an agency, that agency may hold a meeting with less than 24 hours' notice upon giving such notice of the meeting and subjects expected to be considered at the meeting as is reasonable under the circumstances, including notice to the county legal organ or a newspaper having a general circulation in the county at least equal to that of the legal organ, in which event the reason for holding the meeting within 24 hours and the nature of the notice shall be recorded in the minutes. Such reasonable notice shall also include, upon written request within the previous calendar year from any local broadcast or print media outlet whose place of business and physical facilities are located in the county, notice by telephone, facsimile, or e-mail to that requesting media outlet.

(e)(1) Prior to any meeting, the agency or committee holding such meeting shall make available an agenda of all matters expected to come before the agency or committee at such meeting. The agenda shall be available upon request and shall be posted at the meeting site, as far in advance of the meeting as reasonably possible, but shall not be required to be available more than two weeks prior to the

meeting and shall be posted, at a minimum, at some time during the two-week period immediately prior to the meeting. Failure to include on the agenda an item which becomes necessary to address during the course of a meeting shall not preclude considering and acting upon such item.

(2)(A) A summary of the subjects acted on and those members present at a meeting of any agency shall be written and made available to the public for inspection within two business days of the adjournment of a meeting.

(B) The regular minutes of a meeting subject to this chapter shall be promptly recorded and such records shall be open to public inspection once approved as official by the agency or its committee, but in no case later than immediately following its next regular meeting; provided, however, that nothing contained in this chapter shall prohibit the earlier release of minutes, whether approved by the agency or not. Such minutes shall, at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, the identity of the persons making and seconding the motion or other proposal, and a record of all votes. The name of each person voting for or against a proposal shall be recorded. It shall be presumed that the action taken was approved by each person in attendance unless the minutes reflect the name of the persons voting against the proposal or abstaining.

(C) Minutes of executive sessions shall also be recorded but shall not be open to the public. Such minutes shall specify each issue discussed in executive session by the agency or committee. In the case of executive sessions where matters subject to the attorney-client privilege are discussed, the fact that an attorney-client discussion occurred and its subject shall be identified, but the substance of the discussion need not be recorded and shall not be identified in the minutes. Such minutes shall be kept and preserved for in camera inspection by an appropriate court should a dispute arise as to the propriety of any executive session.

(f) An agency with state-wide jurisdiction or committee of such an agency shall be authorized to conduct meetings by teleconference, provided that any such meeting is conducted in compliance with this chapter.

(g) Under circumstances necessitated by emergency conditions involving public safety or the preservation of property or public services, agencies or committees thereof not otherwise permitted by subsection (f) of this Code section to conduct meetings by teleconference may meet by means of teleconference so long as the notice required by this chapter is provided and means are afforded for the public to have simultaneous access to the teleconference meeting. On any other occasion of the meeting of an agency or committee thereof, and so long as a quorum is present in person, a member may participate by teleconference if necessary due to reasons of health or absence from the jurisdiction so long as the other requirements of this chapter are met. Absent emergency conditions or the written opinion of a physician or other health professional that reasons of health prevent a member's physical

presence, no member shall participate by teleconference pursuant to this subsection more than twice in one calendar year.

Current through the 2017 Regular Session

Minor, M.A., & Georgia Public Library Service. (2012). *Georgia open meetings/open records laws: A guide for public librarians*, pp. 5-7, 21-23. Available at http://www.georgialibraries.org/dir_mtg/12_2012/

Title 50. State Government

Chapter 14. Open and Public Meetings

O.C.G.A. § 50-14-2. Attorney-client privilege and confidential tax matters not affected

This chapter shall not be construed so as to repeal in any way:

- (1) The attorney-client privilege recognized by state law to the extent that a meeting otherwise required to be open to the public under this chapter may be closed in order to consult and meet with legal counsel pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the agency or any officer or employee or in which the agency or any officer or employee may be directly involved; provided, however, the meeting may not be closed for advice or consultation on whether to close a meeting; and
- (2) Those tax matters which are otherwise made confidential by state law.

Current through the 2017 Regular Session

Title 50. State Government

Chapter 14. Open and Public Meetings

O.C.G.A. § 50-14-3. Exceptions

(a) This chapter shall not apply to the following:

- (1) Staff meetings held for investigative purposes under duties or responsibilities imposed by law;
- (2) The deliberations and voting of the State Board of Pardons and Paroles; and in addition such board may close a meeting held for the purpose of receiving information or evidence for or against clemency or in revocation proceedings if it determines that the receipt of such information or evidence in open meeting would present a substantial risk of harm or injury to a witness;
- (3) Meetings of the Georgia Bureau of Investigation or any other law enforcement or prosecutorial agency in the state, including grand jury meetings;

(4) Adoptions and proceedings related thereto;

(5) Gatherings involving an agency and one or more neutral third parties in mediation of a dispute between the agency and any other party. In such a gathering, the neutral party may caucus jointly or independently with the parties to the mediation to facilitate a resolution to the conflict, and any such caucus shall not be subject to the requirements of this chapter. Any decision or resolution agreed to by an agency at any such caucus shall not become effective until ratified in a public meeting and the terms of any such decision or resolution are disclosed to the public. Any final settlement agreement, memorandum of agreement, memorandum of understanding, or other similar document, however denominated, in which an agency has formally resolved a claim or dispute shall be subject to the provisions of Article 4 of Chapter 18 of this title;

(6) Meetings:

(A) Of any medical staff committee of a public hospital;

(B) Of the governing authority of a public hospital or any committee thereof when performing a peer review or medical review function as set forth in Code Section 31-7-15, Articles 6 and 6A of Chapter 7 of Title 31, or under any other applicable federal or state statute or regulation; and

(C) Of the governing authority of a public hospital or any committee thereof in which the granting, restriction, or revocation of staff privileges or the granting of abortions under state or federal law is discussed, considered, or voted upon;

(7) Incidental conversation unrelated to the business of the agency; or

(8) E-mail communications among members of an agency; provided, however, that such communications shall be subject to disclosure pursuant to Article 4 of Chapter 18 of this title.

(b) Subject to compliance with the other provisions of this chapter, executive sessions shall be permitted for:

(1) Meetings when any agency is discussing or voting to:

(A) Authorize the settlement of any matter which may be properly discussed in executive session in accordance with paragraph (1) of Code Section 50-14-2;

(B) Authorize negotiations to purchase, dispose of, or lease property;

(C) Authorize the ordering of an appraisal related to the acquisition or disposal of real estate;

(D) Enter into a contract to purchase, dispose of, or lease property subject to approval in a subsequent public vote; or

(E) Enter into an option to purchase, dispose of, or lease real estate subject to approval in subsequent public vote.

No vote in executive session to acquire, dispose of, or lease real estate, or to settle litigation, claims, or administrative proceedings, shall be binding on an agency until a subsequent vote is taken in an open meeting where the identity of the property and the terms of the acquisition, disposal, or lease are disclosed before the vote or where the parties and principal settlement terms are disclosed before the vote;

(2) Meetings when discussing or deliberating upon the appointment, employment, compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of a public officer or employee or interviewing applicants for the position of the executive head of an agency. This exception shall not apply to the receipt of evidence or when hearing argument on personnel matters, including whether to impose disciplinary action or dismiss a public officer or employee or when considering or discussing matters of policy regarding the employment or hiring practices of the agency. The vote on any matter covered by this paragraph shall be taken in public and minutes of the meeting as provided in this chapter shall be made available. Meetings by an agency to discuss or take action on the filling of a vacancy in the membership of the agency itself shall at all times be open to the public as provided in this chapter;

(3) Meetings of the board of trustees or the investment committee of any public retirement system created by or subject to Title 47 when such board or committee is discussing matters pertaining to investment securities trading or investment portfolio positions and composition; and

(4) Portions of meetings during which that portion of a record made exempt from public inspection or disclosure pursuant to Article 4 of Chapter 18 of this title is to be considered by an agency and there are no reasonable means by which the agency can consider the record without disclosing the exempt portions if the meeting were not closed.

Current through the 2017 Regular Session

For requirements on executive session see, Minor, M.A., & Georgia Public Library Service. (2012). *Georgia open meetings/open records laws: A guide for public librarians*, pp. 7, 22. Available at http://www.georgialibraries.org/dir_mtg/12_2012/

Title 50. State Government
Chapter 14. Open and Public Meetings
O.C.G.A. § 50-14-4. Procedure for closure of meetings

(a) When any meeting of an agency is closed to the public pursuant to any provision of this chapter, the specific reasons for such closure shall be entered upon the official minutes, the meeting shall not be closed to the public except by a majority vote of a quorum present for the meeting, the minutes shall reflect the names of the members present and the names of those voting for closure, and that part of the minutes shall be made available to the public as any other minutes. Where a meeting of an agency is devoted in part to matters within the exceptions provided by law, any portion of the meeting not subject to any such exception, privilege, or confidentiality shall be open to the public, and the minutes of such portions not subject to any such exception shall be taken, recorded, and open to public inspection as provided in subsection (e) of Code Section 50-14-1.

(b)(1) When any meeting of an agency is closed to the public pursuant to subsection (a) of this Code section, the person presiding over such meeting or, if the agency's policy so provides, each member of the governing body of the agency attending such meeting, shall execute and file with the official minutes of the meeting a notarized affidavit stating under oath that the subject matter of the meeting or the closed portion thereof was devoted to matters within the exceptions provided by law and identifying the specific relevant exception.

(2) In the event that one or more persons in an executive session initiates a discussion that is not authorized pursuant to Code Section 50-14-3, the presiding officer shall immediately rule the discussion out of order and all present shall cease the questioned conversation. If one or more persons continue or attempt to continue the discussion after being ruled out of order, the presiding officer shall immediately adjourn the executive session.

Current through the 2017 Regular Session

Minor, M.A., & Georgia Public Library Service. (2012). *Georgia open meetings/open records laws: A guide for public librarians*, p. 9-11. Available at http://www.georgialibraries.org/dir_mtg/12_2012/

Title 50. State Government
Chapter 14. Open and Public Meetings
O.C.G.A. § 50-14-5. Superior court jurisdiction

(a) The superior courts of this state shall have jurisdiction to enforce compliance with the provisions of this chapter, including the power to grant injunctions or other equitable relief. In addition to any action that may be brought by any person, firm, corporation, or other entity, the Attorney General shall have authority to bring enforcement actions, either civil or criminal, in his or her discretion as may be appropriate to enforce compliance with this chapter.

(b) In any action brought to enforce the provisions of this chapter in which the court determines that an agency acted without substantial justification in not complying with this chapter, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.

(c) Any agency or person who provides access to information in good faith reliance on the requirements of this chapter shall not be liable in any action on account of having provided access to such information.

Current through the 2017 Regular Session

Title 50. State Government
Chapter 14. Open and Public Meetings
O.C.G.A. § 50-14-6. Violations relating to open meetings

Any person knowingly and willfully conducting or participating in a meeting in violation of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000.00. Alternatively, a civil penalty may be imposed by the court in any civil action brought pursuant to this chapter against any person who negligently violates the terms of this chapter in an amount not to exceed \$1,000.00 for the first violation. A civil penalty or criminal fine not to exceed \$2,500.00 per violation may be imposed for each additional violation that the violator commits within a 12 month period from the date that the first penalty or fine was imposed. It shall be a defense to any criminal action under this Code section that a person has acted in good faith in his or her actions.

Current through the 2017 Regular Session

Open Records Act

Title 50. State Government

Chapter 18. State Printing and Documents

O.C.G.A. § 50-18-70. Legislative findings and declaration; definitions

(a) The General Assembly finds and declares that the strong public policy of this state is in favor of open government; that open government is essential to a free, open, and democratic society; and that public access to public records should be encouraged to foster confidence in government and so that the public can evaluate the expenditure of public funds and the efficient and proper functioning of its institutions. The General Assembly further finds and declares that there is a strong presumption that public records should be made available for public inspection without delay. This article shall be broadly construed to allow the inspection of governmental records. The exceptions set forth in this article, together with any other exception located elsewhere in the Code, shall be interpreted narrowly to exclude only those portions of records addressed by such exception.

(b) As used in this article, the term:

(1) Agency shall have the same meaning as in Code Section 50-14-1 and shall additionally include any association, corporation, or other similar organization that has a membership or ownership body composed primarily of counties, municipal corporations, or school districts of this state, their officers, or any combination thereof and derives more than 33 1/3 percent of its general operating budget from payments from such political subdivisions.

(2) "Public record" means all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, data, data fields, or similar material prepared and maintained or received by an agency or by a private person or entity in the performance of a service or function for or on behalf of an agency or when such documents have been transferred to a private person or entity by an agency for storage or future governmental use.

Current through the 2017 Regular Session

Minor, M.A., & Georgia Public Library Service. (2012). *Georgia open meetings/open records laws: A guide for public librarians*, p. 13. Available at http://www.georgialibraries.org/dir_mtg/12_2012/

Title 50. State Government
Chapter 18. State Printing and Documents

O.C.G.A. § 50-18-71. Inspection and copies of public records; request procedures; fees and charges

(a) All public records shall be open for personal inspection and copying, except those which by order of a court of this state or by law are specifically exempted from disclosure. Records shall be maintained by agencies to the extent and in the manner required by Article 5 of this chapter.

(b)(1)(A) Agencies shall produce for inspection all records responsive to a request within a reasonable amount of time not to exceed three business days of receipt of a request; provided, however, that nothing in this chapter shall require agencies to produce records in response to a request if such records did not exist at the time of the request. In those instances where some, but not all, records are available within three business days, an agency shall make available within that period those records that can be located and produced. In any instance where records are unavailable within three business days of receipt of the request, and responsive records exist, the agency shall, within such time period, provide the requester with a description of such records and a timeline for when the records will be available for inspection or copying and provide the responsive records or access thereto as soon as practicable.

(B) A request made pursuant to this article may be made to the custodian of a public record orally or in writing. An agency may, but shall not be obligated to, require that all written requests be made upon the responder's choice of one of the following: the agency's director, chairperson, or chief executive officer, however denominated; the senior official at any satellite office of an agency; a clerk specifically designated by an agency as the custodian of agency records; or a duly designated open records officer of an agency; provided, however, that the absence or unavailability of the designated agency officer or employee shall not be permitted to delay the agency's response. At the time of inspection, any person may make photographic copies or other electronic reproductions of the records using suitable portable devices brought to the place of inspection. Notwithstanding any other provision of this chapter, an agency may, in its discretion, provide copies of a record in lieu of providing access to the record when portions of the record contain confidential information that must be redacted.

(2) Any agency that designates one or more open records officers upon whom requests for inspection or copying of records may be delivered shall make such designation in writing and shall immediately provide notice to any person upon request, orally or in writing, of those open records officers. If the agency has elected to designate an open records officer, the agency shall so notify the legal organ of the county in which the agency's principal offices reside and, if the agency has a website, shall also prominently display such designation on the agency's website. In the event an agency requires that requests be made upon the individuals identified in subparagraph (B) of paragraph (1) of this subsection, the three-day period for response to a written request shall not begin to run until the request is made in writing upon such individuals. An agency shall permit receipt of written requests by e-mail or facsimile

transmission in addition to any other methods of transmission approved by the agency, provided such agency uses e-mail or facsimile in the normal course of its business.

(3) The enforcement provisions of Code Sections 50-18-73 and 50-18-74 shall be available only to enforce compliance and punish noncompliance when a written request is made consistent with this subsection and shall not be available when such request is made orally.

(c)(1) An agency may impose a reasonable charge for the search, retrieval, redaction, and production or copying costs for the production of records pursuant to this article. An agency shall utilize the most economical means reasonably calculated to identify and produce responsive, nonexcluded documents. Where fees for certified copies or other copies or records are specifically authorized or otherwise prescribed by law, such specific fee shall apply when certified copies or other records to which a specific fee may apply are sought. In all other instances, the charge for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid full-time employee who, in the reasonable discretion of the custodian of the records, has the necessary skill and training to perform the request; provided, however, that no charge shall be made for the first quarter hour.

(2) In addition to a charge for the search, retrieval, or redaction of records, an agency may charge a fee for the copying of records or data, not to exceed 10¢ per page for letter or legal size documents or, in the case of other documents, the actual cost of producing the copy. In the case of electronic records, the agency may charge the actual cost of the media on which the records or data are produced.

(3) Whenever any person has requested to inspect or copy a public record and does not pay the cost for search, retrieval, redaction, or copying of such records when such charges have been lawfully estimated and agreed to pursuant to this article, and the agency has incurred the agreed-upon costs to make the records available, regardless of whether the requester inspects or accepts copies of the records, the agency shall be authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments by such agency.

(d) In any instance in which an agency is required to or has decided to withhold all or part of a requested record, the agency shall notify the requester of the specific legal authority exempting the requested record or records from disclosure by Code section, subsection, and paragraph within a reasonable amount of time not to exceed three business days or in the event the search and retrieval of records is delayed pursuant to this subsection or pursuant to subparagraph (b)(1)(A) of this Code section, then no later than three business days after the records have been retrieved. In any instance in which an agency will seek costs in excess of \$25.00 for responding to a request, the agency shall notify the requester within a reasonable amount of time not to exceed three business days and inform the requester of the estimate of the costs, and the agency may defer search and retrieval of the records until the requester agrees to pay the estimated costs unless the requester has stated in his or her request a willingness to pay an amount that exceeds the search and retrieval costs. In any instance in which the estimated costs for production of the records exceeds \$500.00, an agency may insist on prepayment of the costs prior to

beginning search, retrieval, review, or production of the records. Whenever any person who has requested to inspect or copy a public record has not paid the cost for search, retrieval, redaction, or copying of such records when such charges have been lawfully incurred, an agency may require prepayment for compliance with all future requests for production of records from that person until the costs for the prior production of records have been paid or the dispute regarding payment resolved.

(d.1) Any other provision of this Code section to the contrary notwithstanding, the period within which any production, access, response, or notice is required from an agency with respect to a request for records, other than salary information for nonclerical staff, of intercollegiate sports programs of any unit of the University System of Georgia, including athletic departments and related private athletic associations, shall be 90 business days from the date the agency received the request.

(e) Requests by civil litigants for records that are sought as part of or for use in any ongoing civil or administrative litigation against an agency shall be made in writing and copied to counsel of record for that agency contemporaneously with their submission to that agency. The agency shall provide, at no cost, duplicate sets of all records produced in response to the request to counsel of record for that agency unless the counsel of record for that agency elects not to receive the records.

(f) As provided in this subsection, an agency's use of electronic record-keeping systems must not erode the public's right of access to records under this article. Agencies shall produce electronic copies of or, if the requester prefers, printouts of electronic records or data from data base fields that the agency maintains using the computer programs that the agency has in its possession. An agency shall not refuse to produce such electronic records, data, or data fields on the grounds that exporting data or redaction of exempted information will require inputting range, search, filter, report parameters, or similar commands or instructions into an agency's computer system so long as such commands or instructions can be executed using existing computer programs that the agency uses in the ordinary course of business to access, support, or otherwise manage the records or data. A requester may request that electronic records, data, or data fields be produced in the format in which such data or electronic records are kept by the agency, or in a standard export format such as a flat file electronic American Standard Code for Information Interchange (ASCII) format, if the agency's existing computer programs support such an export format. In such instance, the data or electronic records shall be downloaded in such format onto suitable electronic media by the agency.

(g) Requests to inspect or copy electronic messages, whether in the form of e-mail, text message, or other format, should contain information about the messages that is reasonably calculated to allow the recipient of the request to locate the messages sought, including, if known, the name, title, or office of the specific person or persons whose electronic messages are sought and, to the extent possible, the specific data bases to be searched for such messages.

(h) In lieu of providing separate printouts or copies of records or data, an agency may provide access to records through a website accessible by the public. However, if an agency receives a request for data fields, an agency shall not refuse to provide the responsive data on the grounds that the data is available in whole or in its constituent parts through a website if the requester seeks the data in the electronic format in which it is kept. Additionally, if an agency contracts with a private vendor to collect or maintain public records, the agency shall ensure that the arrangement does not limit public access to those records and that the vendor does not impede public record access and method of delivery as established by the agency or as otherwise provided for in this Code section.

(i) Any computerized index of county real estate deed records shall be printed for purposes of public inspection no less than every 30 days, and any correction made on such index shall be made a part of the printout and shall reflect the time and date that such index was corrected.

(j) No public officer or agency shall be required to prepare new reports, summaries, or compilations not in existence at the time of the request.

Current through the 2017 Regular Session

For applicability to email and text messages, see Minor, M.A., & Georgia Public Library Service. (2012). *Georgia open meetings/open records laws: A guide for public librarians*, p. 13. Available at http://www.georgialibraries.org/dir_mtg/12_2012/

For information on time to respond and a sample three day letter, see Minor, M.A., & Georgia Public Library Service. (2012). *Georgia open meetings/open records laws: A guide for public librarians*, pp. 14, 17. Available at http://www.georgialibraries.org/dir_mtg/12_2012/

For information on copy charges and requiring prepayment, see Minor, M.A., & Georgia Public Library Service. (2012). *Georgia open meetings/open records laws: A guide for public librarians*, pp. 18-19. Available at http://www.georgialibraries.org/dir_mtg/12_2012/

Title 50. State Government
Chapter 18. State Printing and Documents
Article 4. Inspection of Public Records
O.C.G.A. § 50-18-72. Exception of certain records

(a) Public disclosure shall not be required for records that are:

(1) Specifically required by federal statute or regulation to be kept confidential;

(2) Medical or veterinary records and similar files, the disclosure of which would be an invasion of personal privacy;

(3) Except as otherwise provided by law, records compiled for law enforcement or prosecution purposes to the extent that production of such records is reasonably likely to disclose the identity of a confidential source, disclose confidential investigative or prosecution material which would endanger the life or physical safety of any person or persons, or disclose the existence of a confidential surveillance or investigation;

(4) Records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports; provided, however, that an investigation or prosecution shall no longer be deemed to be pending when all direct litigation involving such investigation and prosecution has become final or otherwise terminated; and provided, further, that this paragraph shall not apply to records in the possession of an agency that is the subject of the pending investigation or prosecution; and provided, further, that the release of booking photographs shall only be permissible in accordance with Code Section 35-1-18;

(5) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the submission of a written statement of need by the requesting party to be provided to the custodian of records and to set forth the need for the report pursuant to this Code section; provided, however, that any person or entity whose name or identifying information is contained in a Georgia Uniform Motor Vehicle Accident Report shall be entitled, either personally or through a lawyer or other representative, to receive a copy of such report; and provided, further, that Georgia Uniform Motor Vehicle Accident Reports shall not be available in bulk for inspection or copying by any person absent a written statement showing the need for each such report pursuant to the requirements of this Code section. For the purposes of this subsection, the term "need" means that the natural person or legal entity who is requesting in person or by representative to inspect or copy the Georgia Uniform Motor Vehicle Accident Report:

(A) Has a personal, professional, or business connection with a party to the accident;

- (B) Owns or leases an interest in property allegedly or actually damaged in the accident;
- (C) Was allegedly or actually injured by the accident;
- (D) Was a witness to the accident;
- (E) Is the actual or alleged insurer of a party to the accident or of property actually or allegedly damaged by the accident;
- (F) Is a prosecutor or a publicly employed law enforcement officer;
- (G) Is alleged to be liable to another party as a result of the accident;
- (H) Is an attorney stating that he or she needs the requested reports as part of a criminal case, or an investigation of a potential claim involving contentions that a roadway, railroad crossing, or intersection is unsafe;
- (I) Is gathering information as a representative of a news media organization; provided, however, that such representative submits a statement affirming that the use of such accident report is in compliance with Code Section 33-24-53. Any person who knowingly makes a false statement in requesting such accident report shall be guilty of a violation of Code Section 16-10-20;
- (J) Is conducting research in the public interest for such purposes as accident prevention, prevention of injuries or damages in accidents, determination of fault in an accident or accidents, or other similar purposes; provided, however, that this subparagraph shall apply only to accident reports on accidents that occurred more than 60 days prior to the request and which shall have the name, street address, telephone number, and driver's license number redacted; or
- (K) Is a governmental official, entity, or agency, or an authorized agent thereof, requesting reports for the purpose of carrying out governmental functions or legitimate governmental duties;
- (6) Jury list data, including, but not limited to, persons' names, dates of birth, addresses, ages, race, gender, telephone numbers, social security numbers, and when it is available, the person's ethnicity, and other confidential identifying information that is collected and used by The Council of Superior Court Clerks of Georgia for creating, compiling, and maintaining state-wide master jury lists and county master jury lists for the purpose of establishing and maintaining county jury source lists pursuant to the provisions of Chapter 12 of Title 15; provided, however, that when ordered by the judge of a court having jurisdiction over a case in which a challenge to the array of the grand or trial jury has been filed, The Council of Superior Court Clerks of Georgia, superior court clerk, or jury clerk shall provide data within the time limit established by the court for the limited purpose of such challenge. The Council of

Superior Court Clerks of Georgia, superior court clerk, or jury clerk shall not be liable for any use or misuse of such data;

(7) Records consisting of confidential evaluations submitted to, or examinations prepared by, a governmental agency and prepared in connection with the appointment or hiring of a public officer or employee;

(8) Records consisting of material obtained in investigations related to the suspension, firing, or investigation of complaints against public officers or employees until ten days after the same has been presented to the agency or an officer for action or the investigation is otherwise concluded or terminated, provided that this paragraph shall not be interpreted to make such investigatory records privileged;

(9) Real estate appraisals, engineering or feasibility estimates, or other records made for or by the state or a local agency relative to the acquisition of real property until such time as the property has been acquired or the proposed transaction has been terminated or abandoned;

(10) Pending, rejected, or deferred sealed bids or sealed proposals and detailed cost estimates related thereto until such time as the final award of the contract is made, the project is terminated or abandoned, or the agency in possession of the records takes a public vote regarding the sealed bid or sealed proposal, whichever comes first;

(11) Records which identify persons applying for or under consideration for employment or appointment as executive head of an agency or of a unit of the University System of Georgia; provided, however, that at least 14 calendar days prior to the meeting at which final action or vote is to be taken on the position of executive head of an agency or five business days prior to the meeting at which final action or vote is to be taken on the position of president of a unit of the University System of Georgia, all documents concerning as many as three persons under consideration whom the agency has determined to be the best qualified for the position shall be subject to inspection and copying. Prior to the release of these documents, an agency may allow such a person to decline being considered further for the position rather than have documents pertaining to such person released. In that event, the agency shall release the documents of the next most qualified person under consideration who does not decline the position. If an agency has conducted its hiring or appointment process without conducting interviews or discussing or deliberating in executive session in a manner otherwise consistent with Chapter 14 of this title, it shall not be required to delay final action on the position. The agency shall not be required to release such records of other applicants or persons under consideration, except at the request of any such person. Upon request, the hiring agency shall furnish the number of applicants and the composition of the list by such factors as race and sex. The agency shall not be allowed to avoid the provisions of this paragraph by the employment of a private person or agency to assist with the search or application process;

(12) Related to the provision of staff services to individual members of the General Assembly by the Legislative and Congressional Reapportionment Office, the Senate Research Office, or the House Budget and Research Office, provided that this exception shall not have any application to records related to the provision of staff services to any committee or subcommittee or to any records which are or have been previously publicly disclosed by or pursuant to the direction of an individual member of the General Assembly;

(13) Records that are of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Board of Regents of the University System of Georgia when the owner or donor of such records wishes to place restrictions on access to the records. No restriction on access, however, may extend more than 75 years from the date of donation or sale. This exemption shall not apply to any records prepared in the course of the operation of state or local governments of the State of Georgia;

(14) Records that contain information from the Department of Natural Resources inventory and register relating to the location and character of a historic property or of historic properties as those terms are defined in Code Sections 12-3-50.1 and 12-3-50.2 if the Department of Natural Resources through its Division of Historic Preservation determines that disclosure will create a substantial risk of harm, theft, or destruction to the property or properties or the area or place where the property or properties are located;

(15) Records of farm water use by individual farms as determined by water-measuring devices installed pursuant to Code Section 12-5-31 or 12-5-105; provided, however, that compilations of such records for the 52 large watershed basins as identified by the eight-digit United States Geologic Survey hydrologic code or an aquifer that do not reveal farm water use by individual farms shall be subject to disclosure under this article;

(16) Agricultural or food system records, data, or information that are considered by the Department of Agriculture to be a part of the critical infrastructure, provided that nothing in this paragraph shall prevent the release of such records, data, or information to another state or federal agency if the release of such records, data, or information is necessary to prevent or control disease or to protect public health, safety, or welfare. As used in this paragraph, the term "critical infrastructure" shall have the same meaning as in 42 U.S.C. Section 5195c(e). Such records, data, or information shall be subject to disclosure only upon the order of a court of competent jurisdiction;

(17) Records, data, or information collected, recorded, or otherwise obtained that is deemed confidential by the Department of Agriculture for the purposes of the national animal identification system, provided that nothing in this paragraph shall prevent the release of such records, data, or information to another state or federal agency if the release of such records, data, or information is

necessary to prevent or control disease or to protect public health, safety, or welfare. As used in this paragraph, the term “national animal identification program” means a national program intended to identify animals and track them as they come into contact with or commingle with animals other than herd mates from their premises of origin. Such records, data, or information shall be subject to disclosure only upon the order of a court of competent jurisdiction;

(18) Records that contain site-specific information regarding the occurrence of rare species of plants or animals or the location of sensitive natural habitats on public or private property if the Department of Natural Resources determines that disclosure will create a substantial risk of harm, theft, or destruction to the species or habitats or the area or place where the species or habitats are located; provided, however, that the owner or owners of private property upon which rare species of plants or animals occur or upon which sensitive natural habitats are located shall be entitled to such information pursuant to this article;

(19) Records that reveal the names, home addresses, telephone numbers, security codes, e-mail addresses, or any other data or information developed, collected, or received by counties or municipalities in connection with neighborhood watch or public safety notification programs or with the installation, servicing, maintaining, operating, selling, or leasing of burglar alarm systems, fire alarm systems, or other electronic security systems; provided, however, that initial police reports and initial incident reports shall remain subject to disclosure pursuant to paragraph (4) of this subsection;

(20)(A) Records that reveal an individual's social security number, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access his or her account, financial data or information, insurance or medical information in all records, unlisted telephone number if so designated in a public record, personal e-mail address or cellular telephone number, day and month of birth, and information regarding public utility, television, Internet, or telephone accounts held by private customers, provided that nonitemized bills showing amounts owed and amounts paid shall be available. Items exempted by this subparagraph shall be redacted prior to disclosure of any record requested pursuant to this article; provided, however, that such information shall not be redacted from such records if the person or entity requesting such records requests such information in a writing signed under oath by such person or a person legally authorized to represent such entity which states that such person or entity is gathering information as a representative of a news media organization for use in connection with news gathering and reporting; and provided, further, that such access shall be limited to social security numbers and day and month of birth; and provided, further, that the news media organization exception in this subparagraph shall not apply to paragraph (21) of this subsection.

(B) This paragraph shall have no application to:

- (i) The disclosure of information contained in the records or papers of any court or derived therefrom including without limitation records maintained pursuant to Article 9 of Title 11;
- (ii) The disclosure of information to a court, prosecutor, or publicly employed law enforcement officer, or authorized agent thereof, seeking records in an official capacity;
- (iii) The disclosure of information to a public employee of this state, its political subdivisions, or the United States who is obtaining such information for administrative purposes, in which case, subject to applicable laws of the United States, further access to such information shall continue to be subject to the provisions of this paragraph;
- (iv) The disclosure of information as authorized by the order of a court of competent jurisdiction upon good cause shown to have access to any or all of such information upon such conditions as may be set forth in such order;
- (v) The disclosure of information to the individual in respect of whom such information is maintained, with the authorization thereof, or to an authorized agent thereof; provided, however, that the agency maintaining such information shall require proper identification of such individual or such individual's agent, or proof of authorization, as determined by such agency;
- (vi) The disclosure of the day and month of birth and mother's birth name of a deceased individual;
- (vii) The disclosure by an agency of credit or payment information in connection with a request by a consumer reporting agency as that term is defined under the federal Fair Credit Reporting Act (15 U.S.C. Section 1681, et seq.);
- (viii) The disclosure by an agency of information in its records in connection with the agency's discharging or fulfilling of its duties and responsibilities, including, but not limited to, the collection of debts owed to the agency or individuals or entities whom the agency assists in the collection of debts owed to the individual or entity;
- (ix) The disclosure of information necessary to comply with legal or regulatory requirements or for legitimate law enforcement purposes; or
- (x) The disclosure of the date of birth within criminal records.

(C) Records and information disseminated pursuant to this paragraph may be used only by the authorized recipient and only for the authorized purpose. Any person who obtains records or information pursuant to the provisions of this paragraph and knowingly and willfully discloses, distributes, or sells such records or information to an unauthorized recipient or for an unauthorized

purpose shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction thereof shall be punished as provided in Code Section 17-10-4. Any person injured thereby shall have a cause of action for invasion of privacy.

(D) In the event that the custodian of public records protected by this paragraph has good faith reason to believe that a pending request for such records has been made fraudulently, under false pretenses, or by means of false swearing, such custodian shall apply to the superior court of the county in which such records are maintained for a protective order limiting or prohibiting access to such records.

(E) This paragraph shall supplement and shall not supplant, overrule, replace, or otherwise modify or supersede any provision of statute, regulation, or law of the federal government or of this state as now or hereafter amended or enacted requiring, restricting, or prohibiting access to the information identified in subparagraph (A) of this paragraph and shall constitute only a regulation of the methods of such access where not otherwise provided for, restricted, or prohibited;

(21) Records concerning public employees that reveal the public employee's home address, home telephone number, day and month of birth, social security number, insurance or medical information, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access his or her account, financial data or information other than compensation by a government agency, unlisted telephone number if so designated in a public record, and the identity of the public employee's immediate family members or dependents. This paragraph shall not apply to public records that do not specifically identify public employees or their jobs, titles, or offices. For the purposes of this paragraph, the term "public employee" means any officer, employee, or former employee of:

(A) The State of Georgia or its agencies, departments, or commissions;

(B) Any county or municipality or its agencies, departments, or commissions;

(C) Other political subdivisions of this state;

(D) Teachers in public and charter schools and nonpublic schools; or

(E) Early care and education programs administered through the Department of Early Care and Learning;

(22) Records of the Department of Early Care and Learning that contain the:

(A) Names of children and day and month of each child's birth;

(B) Names, addresses, telephone numbers, or e-mail addresses of parents, immediate family members, and emergency contact persons; or

(C) Names or other identifying information of individuals who report violations to the department;

(23) Public records containing information that would disclose or might lead to the disclosure of any component in the process used to execute or adopt an electronic signature, if such disclosure would or might cause the electronic signature to cease being under the sole control of the person using it. For purposes of this paragraph, the term “electronic signature” has the same meaning as that term is defined in Code Section 10-12-2;

(24) Records acquired by an agency for the purpose of establishing or implementing, or assisting in the establishment or implementation of, a carpooling or ridesharing program, including, but not limited to, the formation of carpools, vanpools, or buspools, the provision of transit routes, rideshare research, and the development of other demand management strategies such as variable working hours and telecommuting;

(25)(A) Records the disclosure of which would compromise security against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, or public property, which shall be limited to the following:

(i) Security plans and vulnerability assessments for any public utility, technology infrastructure, building, facility, function, or activity in effect at the time of the request for disclosure or pertaining to a plan or assessment in effect at such time;

(ii) Any plan for protection against terrorist or other attacks that depends for its effectiveness in whole or in part upon a lack of general public knowledge of its details;

(iii) Any document relating to the existence, nature, location, or function of security devices designed to protect against terrorist or other attacks that depend for their effectiveness in whole or in part upon a lack of general public knowledge;

(iv) Any plan, blueprint, or other material which if made public could compromise security against sabotage, criminal, or terroristic acts; and

(v) Records of any government sponsored programs concerning training relative to governmental security measures which would identify persons being trained or instructors or would reveal information described in divisions (i) through (iv) of this subparagraph.

(B) In the event of litigation challenging nondisclosure pursuant to this paragraph by an agency of a document covered by this paragraph, the court may review the documents in question in camera and may condition, in writing, any disclosure upon such measures as the court may find to be necessary to protect against endangerment of life, safety, or public property.

(C) As used in division (i) of subparagraph (A) of this paragraph, the term “activity” means deployment or surveillance strategies, actions mandated by changes in the federal threat level, motorcades, contingency plans, proposed or alternative motorcade routes, executive and dignitary protection, planned responses to criminal or terrorist actions, after-action reports still in use, proposed or actual plans and responses to bioterrorism, and proposed or actual plans and responses to requesting and receiving the National Pharmacy Stockpile;

(26) Unless the request is made by the accused in a criminal case or by his or her attorney, public records of an emergency 9-1-1 system, as defined in paragraph (5) of Code Section 46-5-122, containing information which would reveal the name, address, or telephone number of a person placing a call to a public safety answering point. Such information may be redacted from such records if necessary to prevent the disclosure of the identity of a confidential source, to prevent disclosure of material which would endanger the life or physical safety of any person or persons, or to prevent the disclosure of the existence of a confidential surveillance or investigation;

(26.1) In addition to the exemption provided by paragraph (26) of this subsection, audio recordings of a 9-1-1 telephone call to a public safety answering point which contain the speech in distress or cries in extremis of a caller who died during the call or the speech or cries of a person who was a minor at the time of the call, except to the following, provided that the person seeking the audio recording of a 9-1-1 telephone call submits a sworn affidavit that attests to the facts necessary to establish eligibility under this paragraph:

(A) A duly appointed representative of a deceased caller's estate;

(B) A parent or legal guardian of a minor caller;

(C) An accused in a criminal case when, in the good faith belief of the accused, the audio recording of the 9-1-1 telephone call is relevant to his or her criminal proceeding;

(D) A party to a civil action when, in the good faith belief of such party, the audio recording of the 9-1-1 telephone call is relevant to the civil action;

(E) An attorney for any of the persons identified in subparagraphs (A) through (D) of this paragraph; or

(F) An attorney for a person who may pursue a civil action when, in the good faith belief of such attorney, the audio recording of the 9-1-1 telephone call is relevant to the potential civil action;

(26.2) Audio and video recordings from devices used by law enforcement officers in a place where there is a reasonable expectation of privacy when there is no pending investigation, except to the following, provided that the person seeking the audio or video recording submits a sworn affidavit that attests to the facts necessary to establish eligibility under this paragraph:

(A) A duly appointed representative of a deceased's estate when the decedent was depicted or heard on such recording;

(B) A parent or legal guardian of a minor depicted or heard on such recording;

(C) An accused in a criminal case when, in the good faith belief of the accused, such recording is relevant to his or her criminal proceeding;

(D) A party to a civil action when, in the good faith belief of such party, such recording is relevant to the civil action;

(E) An attorney for any of the persons identified in subparagraphs (A) through (D) of this paragraph; or

(F) An attorney for a person who may pursue a civil action when, in the good faith belief of such attorney, such recording is relevant to the potential civil action;

(27) Records of athletic or recreational programs, available through the state or a political subdivision of the state, that include information identifying a child or children 12 years of age or under by name, address, telephone number, or emergency contact, unless such identifying information has been redacted;

(28) Records of the State Road and Tollway Authority which would reveal the financial accounts or travel history of any individual who is a motorist upon any toll project;

(29) Records maintained by public postsecondary educational institutions in this state and associated foundations of such institutions that contain personal information concerning donors or potential donors to such institutions or foundations; provided, however, that the name of any donor and the amount of donation made by such donor shall be subject to disclosure if such donor or any entity in which such donor has a substantial interest transacts business with the public postsecondary educational institution to which the donation is made within three years of the date of such donation. As used in this paragraph, the term "transact business" means to sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party as an agent, broker, dealer,

or representative in an amount in excess of \$10,000.00 in the aggregate in a calendar year; and the term “substantial interest” means the direct or indirect ownership of more than 25 percent of the assets or stock of an entity;

(30) Records of the Metropolitan Atlanta Rapid Transit Authority or of any other transit system that is connected to that system's TransCard, SmartCard, or successor or similar system which would reveal the financial records or travel history of any individual who is a purchaser of a TransCard, SmartCard, or successor or similar fare medium. Such financial records shall include, but not be limited to, social security number, home address, home telephone number, e-mail address, credit or debit card information, and bank account information but shall not include the user's name;

(31) Building mapping information produced and maintained pursuant to Article 10 of Chapter 3 of Title 38;

(32) Notwithstanding the provisions of paragraph (4) of this subsection, any physical evidence or investigatory materials that are evidence of an alleged violation of Part 2 of Article 3 of Chapter 12 of Title 16 and are in the possession, custody, or control of law enforcement, prosecution, or regulatory agencies;

(33) Records that are expressly exempt from public inspection pursuant to Code Sections 47-1-14 and 47-7-127;

(34) Any trade secrets obtained from a person or business entity that are required by law, regulation, bid, or request for proposal to be submitted to an agency. An entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10. If such entity attaches such an affidavit, before producing such records in response to a request under this article, the agency shall notify the entity of its intention to produce such records as set forth in this paragraph. If the agency makes a determination that the specifically identified information does not in fact constitute a trade secret, it shall notify the entity submitting the affidavit of its intent to disclose the information within ten days unless prohibited from doing so by an appropriate court order. In the event the entity wishes to prevent disclosure of the requested records, the entity may file an action in superior court to obtain an order that the requested records are trade secrets exempt from disclosure. The entity filing such action shall serve the requestor with a copy of its court filing. If the agency makes a determination that the specifically identified information does constitute a trade secret, the agency shall withhold the records, and the requester may file an action in superior court to obtain an order that the requested records are not trade secrets and are subject to disclosure;

(35) Data, records, or information of a proprietary nature produced or collected by or for faculty or staff of state institutions of higher learning, or other governmental agencies, in the conduct of, or as a result of, study or research on commercial, scientific, technical, or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, where such data, records, or information has not been publicly released, published, copyrighted, or patented;

(36) Any data, records, or information developed, collected, or received by or on behalf of faculty, staff, employees, or students of an institution of higher education or any public or private entity supporting or participating in the activities of an institution of higher education in the conduct of, or as a result of, study or research on medical, scientific, technical, scholarly, or artistic issues, whether sponsored by the institution alone or in conjunction with a governmental body or private entity, until such information is published, patented, otherwise publicly disseminated, or released to an agency whereupon the request must be made to the agency. This paragraph shall apply to, but shall not be limited to, information provided by participants in research, research notes and data, discoveries, research projects, methodologies, protocols, and creative works;

(37) Any 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;

(38) Unless otherwise provided by law, records consisting of questions, scoring keys, and other materials constituting a test that derives value from being unknown to the test taker prior to administration which is to be administered by an agency, including, but not limited to, any public school, any unit of the Board of Regents of the University System of Georgia, any public technical school, the State Board of Education, the Office of Student Achievement, the Professional Standards Commission, or a local school system, if reasonable measures are taken by the owner of the test to protect security and confidentiality; provided, however, that the State Board of Education may establish procedures whereby a person may view, but not copy, such records if viewing will not, in the judgment of the board, affect the result of administration of such test. These limitations shall not be interpreted by any court of law to include or otherwise exempt from inspection the records of any athletic association or other nonprofit entity promoting intercollegiate athletics;

(39) Records disclosing the identity or personally identifiable information of any person participating in research on commercial, scientific, technical, medical, scholarly, or artistic issues conducted by the Department of Community Health, the Department of Public Health, the Department of Behavioral Health and Developmental Disabilities, or a state institution of higher education whether sponsored by the institution alone or in conjunction with a governmental body or private entity;

(40) Any permanent records maintained by a judge of the probate court pursuant to Code Section 16-11-129, relating to weapons carry licenses, or pursuant to any other requirement for maintaining records relative to the possession of firearms, except to the extent that such records relating to licensing

and possession of firearms are sought by law enforcement agencies or a judge of the probate court as provided by law;

(41) Records containing communications subject to the attorney-client privilege recognized by state law; provided, however, that this paragraph shall not apply to the factual findings, but shall apply to the legal conclusions, of an attorney conducting an investigation on behalf of an agency so long as such investigation does not pertain to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the agency or any officer or employee; and provided, further, that such investigations conducted by hospital authorities to ensure compliance with federal or state law, regulations, or reimbursement policies shall be exempt from disclosure if such investigations are otherwise subject to the attorney-client privilege. Attorney-client communications, however, may be obtained in a proceeding under Code Section 50-18-73 to prove justification or lack thereof in refusing disclosure of documents under this Code section provided the judge of the court in which such proceeding is pending shall first determine by an in camera examination that such disclosure would be relevant on that issue. In addition, when an agency withholds information subject to this paragraph, any party authorized to bring a proceeding under Code Section 50-18-73 may request that the judge of the court in which such proceeding is pending determine by an in camera examination whether such information was properly withheld;

(42) Confidential attorney work product; provided, however, that this paragraph shall not apply to the factual findings, but shall apply to the legal conclusions, of an attorney conducting an investigation on behalf of an agency so long as such investigation does not pertain to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the agency or any officer or employee; and provided, further, that such investigations conducted by hospital authorities to ensure compliance with federal or state law, regulations, or reimbursement policies shall be exempt from disclosure if such investigations are otherwise subject to confidentiality as attorney work product. In addition, when an agency withholds information subject to this paragraph, any party authorized to bring a proceeding under Code Section 50-18-73 may request that the judge of the court in which such proceeding is pending determine by an in camera examination whether such information was properly withheld;

(43) Records containing tax matters or tax information that is confidential under state or federal law;

(44) Records consisting of any computer program or computer software used or maintained in the course of operation of a public office or agency; provided, however, that data generated, kept, or received by an agency shall be subject to inspection and copying as provided in this article;

(45) Records pertaining to the rating plans, rating systems, underwriting rules, surveys, inspections, statistical plans, or similar proprietary information used to provide or administer liability insurance or self-insurance coverage to any agency;

(46) Documents maintained by any agency, as such term is defined in subparagraph (a)(1)(A) of Code Section 50-14-1, which pertain to an economic development project until the economic development project is secured by binding commitment, provided that any such documents shall be disclosed upon proper request after a binding commitment has been secured or the project has been terminated. No later than five business days after the Department of Economic Development secures a binding commitment and the department has committed the use of state funds from the OneGeorgia Authority or funds from Regional Economic Business Assistance for the project pursuant to Code Section 50-8-8, or other provisions of law, the Department of Economic Development shall give notice that a binding commitment has been reached by posting on its website notice of the project in conjunction with a copy of the Department of Economic Development's records documenting the bidding commitment made in connection with the project and the negotiation relating thereto and by publishing notice of the project and participating parties in the legal organ of each county in which the economic development project is to be located. As used in this paragraph, the term "economic development project" means a plan or proposal to locate a business, or to expand a business, that would involve an expenditure of more than \$25 million by the business or the hiring of more than 50 employees by the business;

(47) Records related to a training program operated under the authority of Article 3 of Chapter 4 of Title 20 disclosing an economic development project prior to a binding commitment having been secured, relating to job applicants, or identifying proprietary hiring practices, training, skills, or other business methods and practices of a private entity. As used in this paragraph, the term "economic development project" means a plan or proposal to locate a business, or to expand a business, that would involve an expenditure of more than \$25 million by the business or the hiring of more than 50 employees by the business;

(48) Records that are expressly exempt from public inspection pursuant to Code Section 47-20-87;

(49) Data, records, or information acquired by the Commissioner of Labor or the Department of Labor as part of any investigation required pursuant to Code Section 39-2-18, relating to minors employed as actors or performers; or

(50) Held by the Georgia Superior Court Clerks' Cooperative Authority or any other public or private entity for and on behalf of a clerk of superior court; provided, however, that such records may be obtained from a clerk of superior court unless otherwise exempted from disclosure.

(b) This Code section shall be interpreted narrowly so as to exclude from disclosure only that portion of a public record to which an exclusion is directly applicable. It shall be the duty of the agency having custody of a record to provide all other portions of a record for public inspection or copying.

(c)(1) Notwithstanding any other provision of this article, an exhibit tendered to the court as evidence in a criminal or civil trial shall not be open to public inspection without approval of the judge assigned to the case.

(2) Except as provided in subsection (d) of this Code section, in the event inspection is not approved by the court, in lieu of inspection of such an exhibit, the custodian of such an exhibit shall, upon request, provide one or more of the following:

(A) A photograph;

(B) A photocopy;

(C) A facsimile; or

(D) Another reproduction.

(3) The provisions of this article regarding fees for production of a record, including, but not limited to, subsections (c) and (d) of Code Section 50-18-71, shall apply to exhibits produced according to this subsection.

(d) Any physical evidence that is used as an exhibit in a criminal or civil trial to show or support an alleged violation of Part 2 of Article 3 of Chapter 12 of Title 16 shall not be open to public inspection except by court order. If the judge approves inspection of such physical evidence, the judge shall designate, in writing, the facility owned or operated by an agency of the state or local government where such physical evidence may be inspected. If the judge permits inspection, such property or material shall not be photographed, copied, or reproduced by any means. Any person who violates the provisions of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 20 years, a fine of not more than \$100,000.00, or both.

Current through the 2017 Regular Session

Title 50. State Government
Chapter 18. State Printing and Documents
Article 4. Inspection of Public Records
O.C.G.A. § 50-18-73. Actions to enforce provisions

(a) The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against persons or agencies having custody of records open to the public under this article to enforce compliance with the provisions of this article. Such actions may be brought by any person, firm, corporation, or other entity. In addition, the Attorney General shall have authority to bring such actions in his or her discretion as may be appropriate to enforce compliance with this article and to seek either civil or criminal penalties or both.

(b) In any action brought to enforce the provisions of this chapter in which the court determines that either party acted without substantial justification either in not complying with this chapter or in instituting the litigation, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.

(c) Any agency or person who provides access to information in good faith reliance on the requirements of this chapter shall not be liable in any action on account of such decision.

Current through the 2017 Regular Session

Title 50. State Government
Chapter 18. State Printing and Documents
Article 4. Inspection of Public Records
O.C.G.A. § 50-18-74. Penalties

(a) Any person or entity knowingly and willfully violating the provisions of this article by failing or refusing to provide access to records not subject to exemption from this article, by knowingly and willingly failing or refusing to provide access to such records within the time limits set forth in this article, or by knowingly and willingly frustrating or attempting to frustrate the access to records by intentionally making records difficult to obtain or review shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000.00 for the first violation. Alternatively, a civil penalty may be imposed by the court in any civil action brought pursuant to this article against any person who negligently violates the terms of this article in an amount not to exceed \$1,000.00 for the

first violation. A civil penalty or criminal fine not to exceed \$2,500.00 per violation may be imposed for each additional violation that the violator commits within a 12 month period from the date the first penalty or fine was imposed. It shall be a defense to any criminal action under this Code section that a person has acted in good faith in his or her actions. In addition, persons or entities that destroy records for the purpose of preventing their disclosure under this article may be subject to prosecution under Code Section 45-11-1.

(b) A prosecution under this Code section may only be commenced by issuance of a citation in the same manner as an arrest warrant for a peace officer pursuant to Code Section 17-4-40; such citation shall be personally served upon the accused. The defendant shall not be arrested prior to the time of trial, except that a defendant who fails to appear for arraignment or trial may thereafter be arrested pursuant to a bench warrant and required to post a bond for his or her future appearance.

Current through the 2017 Regular Session