2-G-1 | INSPECTION OF PUBLIC RECORDS

Providing access to public records is a statutory duty imposed by the Legislature upon all record custodians and should not be considered a profit-making or revenue-generating operation. AGO 85-03. Thus, public information must be open for inspection without charge unless otherwise expressly provided by law. See State ex rel. Davis v. McMillan, 38 So. 666 (Fla. 1905). See also AGOs 84-03 and 76-34 (only those fees or charges which are authorized by statute may be imposed upon an individual seeking access to public records). Cf. AGO 75-50 (the fact that the record sought to be inspected is a tape recording as opposed to a written document is of no import insofar as the imposition of a fee for inspection is concerned).

Section 119.07(4)(d), F.S., however, authorizes the imposition of a special service charge when the nature or volume of public records to be inspected is such as to require extensive use of information technology resources, or extensive clerical or supervisory assistance, or both. The charge must be reasonable and based on the labor or computer costs actually incurred by the agency. See Board of County Commissioners of Highlands County v. Colby, 976 So. 2d 31 (Fla. 2d DCA 2008) (special service charge applies to requests for both inspection and copies of public records when extensive clerical assistance is required).

In addition, an agency may adopt a policy imposing a reasonable special service charge based on the actual labor cost for clerical personnel who are required, due to the nature or volume of a public records request, to safeguard such records from loss or destruction during their inspection. AGO 00-11. For example, in AGO 00-11, the requested records were described as "original documents that have no recorded or maintained counterparts, such that, by their nature, they would need a heightened degree of protection from alteration or destruction." A determination of whether the nature or volume of the public records requires such extensive assistance must be made on a case-by-case basis; the special service charge may not be routinely imposed. Id.

Moreover, it would be difficult to justify the imposition of a fee for extensive clerical or supervisory assistance if the personnel providing such assistance were simultaneously performing regular duties. Id. And see Board of Trustees, Jacksonville Police & Fire Pension Fund v. Lee, 189 So. 3d 120 (Fla. 2016) (affirming trial court finding that two conditions—an hourly photocopying fee and an hourly supervisory fee—were imposed in violation of s. 119.07, F.S.).