

2-C-4 | DIRECT-SUPPORT ORGANIZATIONS

Direct-support organizations established by or pursuant to law to support the efforts of public agencies have been found to be subject to the open government laws. See AGOs 92-53 (John and Mable Ringling Museum of Art Foundation, Inc., established pursuant to statute as a not-for-profit corporation to assist the museum in carrying out its functions must comply with open government laws), 11-01 (nonprofit corporation created by municipality and described as its "fundraising arm" subject to open government laws); and 05-27 (Sunshine Law applies to Florida College System institution [formerly community college] direct-support organization as defined in s. 1004.70, F.S.). Cf. s. 20.058, F.S., requiring that citizen support organizations or direct-support organizations created or authorized by law or executive order and created, approved, or administered by an agency must submit specified information to the agency which shall then post the information on the agency's website.

However, the Legislature has enacted exemptions for information identifying donors to certain direct-support organizations. For example, the identity of donors to a direct-support organization of a district school board, and all information identifying such donors and prospective donors, are confidential and exempt from the provisions of s. 119.07(1), F.S.; that anonymity is required to be maintained in the auditor's report. See s. 1001.453(4), F.S.

More commonly, however, the statutory exemption applies only to the identity of donors who wish to remain anonymous. See, e.g., s. 570.691(6), F.S. (identity of a donor or prospective donor to the direct-support organizations authorized to support programs in the Department of Agriculture and Consumer Services "who desires to remain anonymous and all information identifying such donor or prospective donor" is confidential). Cf. s. 265.7015, F.S. (if the donor or prospective donor of a donation made for the benefit of a publicly owned performing arts center desires to remain anonymous, information that would identify the name, address, or telephone number of that donor or prospective donor is confidential and exempt).

The identity of donors to a university direct-support organization who wish to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report of the organization. Section 1004.28(5)(a), F.S. Other than the auditor's report, management letter, any records related to the expenditure of state funds, and any financial records related to the expenditure of



private funds for travel, all records of a university direct-support organization and any supplemental data requested by the Board of Governors, the Auditor General, board of trustees, and the Office of Program Policy Analysis and Government Accountability [OPPAGA] are confidential and exempt from s. 119.07(1), F.S. Section 1004.28(5)(b), F.S.

By contrast, s. 1004.70(6), F.S., provides that records of the Florida College System institution direct-support organizations other than the auditor's report, any information necessary for the auditor's report, any information related to the expenditure of funds, and any supplemental data requested by the board of trustees, the Auditor General, and OPPAGA, are confidential and exempt from s. 119.07(1), F.S. See *Palm Beach Community College Foundation, Inc. v. WFTV*, 611 So. 2d 588 (Fla. 4th DCA 1993) (direct-support organization's expense records are public records subject to deletion of donor-identifying information).

For more information on exemptions for particular direct-support or citizen-support organizations, please consult Appendix D or the Index.

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