

School board members retain copies of public records

Number: AGO 92-85

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Subject:

School board members retain copies of public records

Ms. Abbey G. Hairston
General Counsel
The School Board of Palm Beach County

RE: PUBLIC RECORDS—SCHOOL BOARDS—PALM BEACH COUNTY—individual school board members not required to maintain records which clerk of the school board as designated custodian of such records maintains at school administrative offices. ss. 119.021, 119.07, Fla. Stat.

QUESTION:

Must individual school board members retain copies of public records which are regularly maintained in the course of business by the clerk of the school board in the school board administrative offices?

SUMMARY:

Records which are regularly maintained by the clerk of the school board at the school board administrative offices need not be additionally maintained by the individual school board members.

Section 119.021, F.S., provides:

"The elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, *or his designee*, shall be the custodian thereof." (e.s.)

The statute's plain language requires the officer responsible for maintaining an office having public records to be the custodian of records made or received in the course of official business.[1] The public official, however, may designate a person to be the custodian of public records held by the office.[2]

You state that most of the records made or received by the individual school board members are duplicated and retained by the clerk of the school board. To the extent the clerk of the school board has been designated the custodian of the records and the clerk maintains such records at the school's administrative offices, there is no statutory requirement that the individual school board member maintain duplicate records.

Section 119.07(1), F.S., states:

"Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or his designee. . . ."

The custodian, therefore, may not restrict or circumvent a person's right of access to public records. [3] Thus, the appointment of the clerk of the school board as custodian of the school district's records may not be used to inhibit the public's right of access to such records.

Accordingly, while the individual school board members are responsible for maintaining the public records of their individual office's, to the extent such records are maintained by the clerk of the school board as the designated custodian, there is no statutory requirement that the records also be maintained by the individual school board members.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/t

[1] *Cf. Tober v. Sanchez*, 417 So.2d 1053 (3 D.C.A. Fla., 1982) (director of county agency, as officer charged by law with the responsibility of maintaining the office is custodian of records and reports emanating from agency).

[2] *Cf. Myakka Valley Ranches Imp. Assoc., Inc. v. City of Sarasota*, Case No. 85-1248 CA-01 (12th Cir. Sarasota Co., May 22, 1985) (city must maintain within the city limits all nonexempt public records or copies of such records) and *Tober* at 1054 (agency head may not avoid his responsibility to maintain records by transferring documents to another agency or office).

[3] See AGO 75-50.