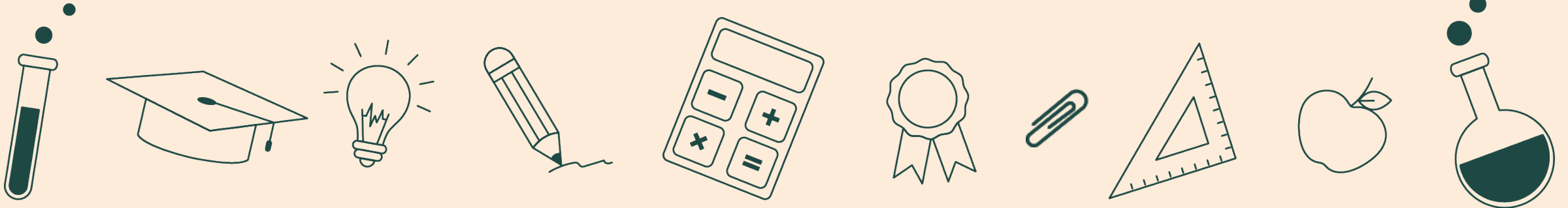




Transparency and Ethics for State Charter Schools

State Charter Schools Commission of Georgia
Cerrone Lockett, General Counsel





Mission & Vision

The **mission** of the State Charter Schools Commission of Georgia is to improve public education by authorizing high-quality charter schools that provide students with better educational opportunities than they would otherwise receive in traditional district schools.

The **vision** of the State Charter Schools Commission of Georgia is “innovative and superior charter schools advancing education in every community.”



Overview



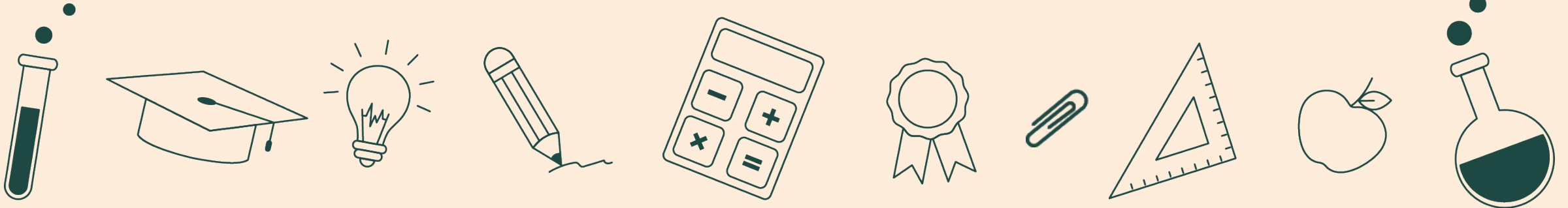
- The Role of the Governing Board
- Open Meetings
- Budget Approval Hearings
- Open Records
- Avoiding Conflicts of Interest





The Role of the Governing Board

State Charter Schools Commission of Georgia



What is a governing board?



An **autonomous governing body** involved in the **governance** of a state charter school.

- Operates in accordance with its bylaws.
- Responsible for complying with and carrying out the provisions of its charter and applicable law.
- Exercises substantive control over personnel, financial, curriculum and instruction, and resource allocation decisions, among others.
- Establishes and monitors the achievement of school goals and operations.

Paragraph 14 of the Charter Contract
State Board of Education Rule (SBOE) 160-4-9-.06



What is a governing board?

Governing Board	Senior Leader
Selects the school leader, Exec. Director, or CEO	Makes operational decisions
Approves major policies	Implements board policies and establishes operational procedures.
Makes major decisions (e.g., location/facilities changes)	Keeps the governing board informed.
Oversees the school's performance	Makes recommendations to the board.
Serve as external advocates	Supervises and oversee staff.



Governing Board Functions



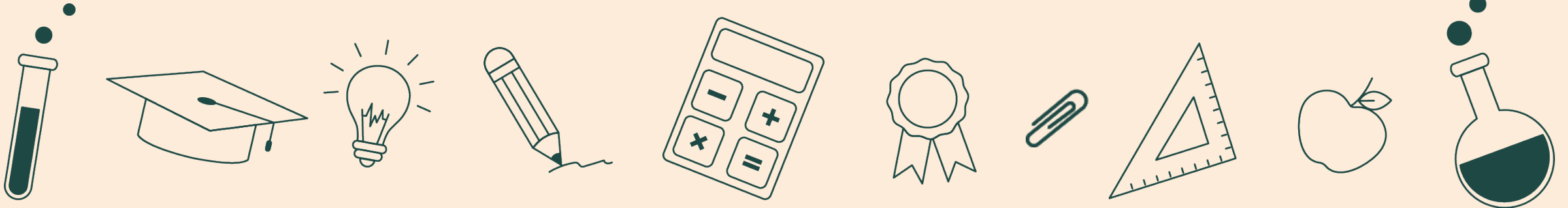
- Exercise independent judgment
- Establish the mission and vision of the organization
- Set strategic goals, structure, and policies
- Establish ethical standards, values, and compliance
- Select, evaluate, and dismiss the school leader, CEO, Executive Director, or Superintendent
- Retain responsibility and accountability for all operations, compliance, and performance of selected contractors or vendors.
- Exercise fiduciary duties with fidelity





Fiduciary Duties

State Charter Schools Commission of Georgia



The Duty of Care



The duty of care requires board members or directors to act in good faith and to use the degree of diligence, care, and skill reasonably prudent persons would exercise in similar circumstances.



The Duty of Care (Cont'd)



- Active participation in school oversight
- Collect sufficient information or expert guidance before acting.
- Devoting sufficient time to review and evaluate the information to make careful and informed decisions.
- Evaluating the performance of the school leader, Education Service Provider (ESP), and vendors.



Duty of Loyalty



The duty requires board members to act in good faith and in a manner that is reasonably believed to be in the interests of the charter school and its public purposes rather than their interests or the interests of another person or organization.



Duty of Loyalty (Cont'd)



- Develop, adopt, and adhere to a conflict of interest policy that meets or exceeds applicable legal and contractual requirements.
 - Disclose potential conflicts
 - Recuse yourself in the event of an actual or apparent conflict of interest
 - Have disinterested board members evaluate potential conflicts
 - Do not serve on the board of directors of an organization that sells goods or services to the school.
- Develop and enforce an employee conflict of interest policy.



The Duty of Obedience



The duty of obedience requires board members to operate in furtherance of the school's purpose, mission, and vision, and in compliance with its bylaws and applicable law.



The Duty of Obedience (Cont'd)



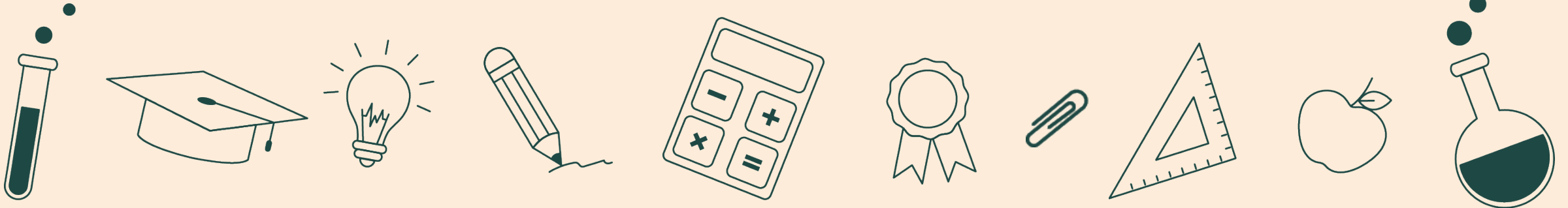
- Regularly review and update, if necessary, the governing board's bylaws.
- Ensure an awareness of the school's obligations pursuant to the charter contract.
- Ensure compliance with the Georgia Open Meetings Act, Open Records Act, and applicable standards for transparency, including but not limited to State Board of Education (SBOE) and SCSC rules.
- Ensure annual governance training requirements are met.





Open Meetings Requirements

State Charter Schools Commission of Georgia



The Georgia Open Meetings Act



- State charter schools must comply with Georgia Open Meetings Act (OMA).
- The OMA ensures that the public can observe the governing board's decision-making process.
- OMA requirements are construed in favor of citizens seeking access.
- The OMA applies to non-exempt “meetings” of the governing board.



What is a meeting?



1. A gathering of a **quorum** of the members of the governing body (or a committee thereof)
2. at which any official business, policy, or public matter of the charter school is formulated, presented, discussed, or voted upon.



Exceptions



- (i) Inspecting a facility or property
- (ii) Multijurisdictional training
- (iii) Meetings with members of the legislative or executive branch at state or federal offices
- (iv) Travel to a meeting
- (v) Social, ceremonial, civic, or religious events
- (vi) Emails*



Public Access and Recordings

- All meetings must be open to the public.*
- All votes must be taken in public.
- Visual and sound recordings must be permitted.



Notice Requirements



Notice requirements vary depending on the type of meeting. For purposes of providing notice, there are three “types” of meetings.

- Regularly Scheduled Meetings
- Special Called Meetings
- Emergency Meetings



Regularly Scheduled Meetings

The notice must be:

- be provided one week in advance of the meeting;
- be publicized in a conspicuous place available to the public at the regular meeting location and on the website; and,
- include the **time, date, and place** of the meeting.

See also Paragraph 14(d) of the Charter; SBOE Rule 160-4-9-.06; and SCSC Rule 691-2-.03(7)



Called Meetings



For any meeting other than a regularly scheduled meeting for which notice has already been provided, notice must:

- be given at least 24 hours in advance of the meeting
- to the county legal organ* and any media outlet that has requested advance notice of special called meetings.

See Charter Contract (“Called Meetings with Less than 24 Hours’ Notice”)



Emergency Meetings



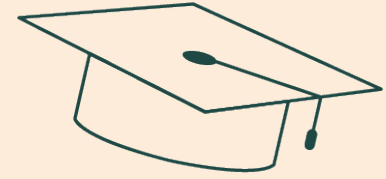
An emergency meeting is a meeting necessitated by special conditions.

Notice for emergency meetings may be given with less than 24 hours; provided notice of the meeting and the subjects expected to be considered are provided as reasonable under the circumstances, including notice to the county legal organ.

See O.C.G.A. § 50-14-1(d)(3)



Virtual Meetings: Statewide Attendance Zones



Charter schools with statewide attendance zones can hold meetings via teleconference. All other notice and agenda requirements must still be met.



Virtual Meetings: Defined Attendance Zone



- Governing boards of schools with defined attendance zones may only meet via teleconference **if emergency conditions necessitate**.
- Individual board members may participate virtually if their health precludes in-person participation, or they are out of the jurisdiction.
- Individual board members may only participate in meetings by teleconference **twice per calendar year** absent a doctor's note.



Meeting Agendas

- Must include “all matters expected to come before the governing board or committee at [the] meeting.”
- Must be made available upon request and posted at the meeting site as far in advance as possible.
- At a minimum, post meeting agendas during the two-week period immediately before the meeting.



Minutes Requirements



- Members present
 - A description of each motion
 - The names of those making and seconding a motion; and
 - A record of all votes.
-
- Minutes must be promptly recorded and made open to the public once approved; and
 - A summary of the meeting shall be written and made available for public inspection within two business days.



Executive Session

- Executive session is the portion of a meeting lawfully closed to the public.
- The OMA identifies matters that may be discussed in executive session.
- All votes must occur during the open portion of the meeting.

See O.C.G.A. § 50-14-3(b)



Executive Session-Real Estate

Executive session is permitted for meetings when the governing board is discussing or voting to:

- authorize settlement subject to the attorney-client privilege;
- authorize negotiations to purchase, dispose of, or lease property;
- authorize the ordering of an appraisal related to the acquisition or disposal of real estate;
- enter into a contract to purchase, dispose of, or lease property; or
- enter into an option to purchase, dispose of, or lease real estate.

See O.C.G.A. § 50-14-3(b)



Executive Session

Executive session is permitted for meetings when the governing board is :

- Matters subject to attorney-client privilege
- discussing or deliberating on specific personnel matters
- Considering a portion of a record exempt from disclosure when there are no reasonable means of considering the record in the public portion of the meeting without disclosing exempt content.
- Discussions or deliberations of cybersecurity plans, procedures, and contracts regarding cybersecurity services.

Associated votes must be taken in the public portion of the meeting.

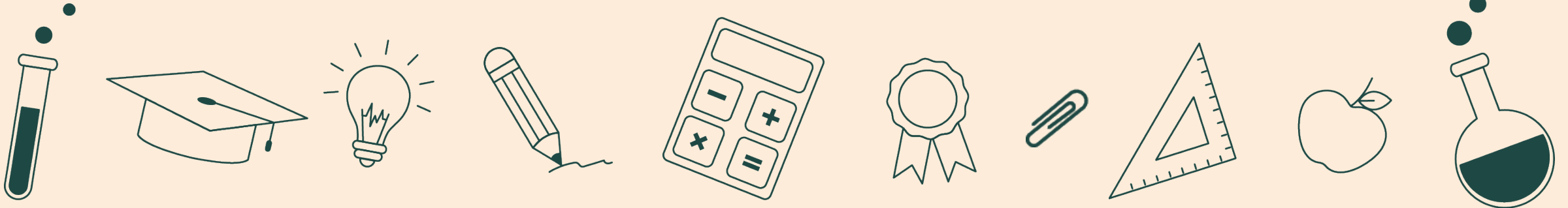
See O.C.G.A. § 50-14-3(b)(2)





Annual Budget Hearings

State Charter Schools Commission of Georgia



O.C.G.A. § 20-2-167.1

The governing board (not a committee) must:

- hold at least two public meetings to discuss and allow input on the annual operating budget before its adoption.
- Cannot be held within the same seven-day period.
- Must be advertised in the local newspaper with general circulation in which the school publishes other legal announcements.

See O.C.G.A. § 20-2-167.1



O.C.G.A. § 20-2-167.1 (cont'd)

- A summary of the annual operating budget adopted by the board must be posted on a publicly available area of the school's website until the operating budget for the next fiscal year is adopted.
- The summary shall provide notice that, upon request, an electronic copy of a line item detailed adopted budget must be provided at no cost and within three business days of the request.

See O.C.G.A. § 20-2-167.1



Best Practices for Open Meetings

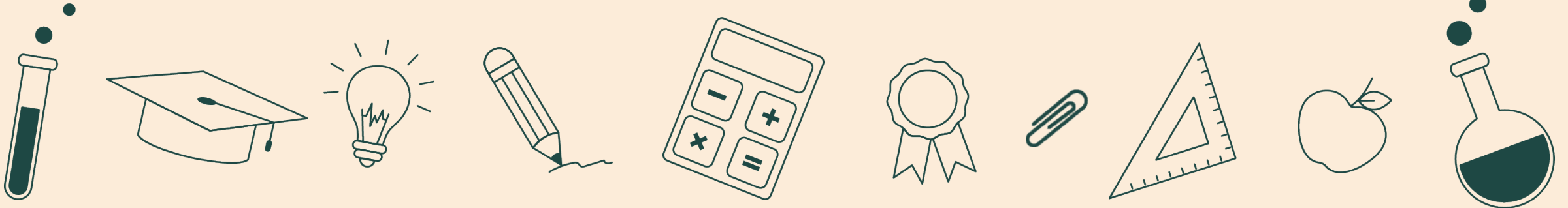
- Have a policy and procedures for ensuring that all technical requirements are met.
- Understand the intersection between open meetings and other statutory requirements.
- Make duties clear – designate someone to ensure notice is provided, meetings are recorded, affidavits are executed, etc.
- Keep records and know where they are kept.





Georgia Open Records Act

State Charter Schools Commission of Georgia



The Georgia Open Records Act

- The Open Records Act (OMA) ensures that the public has access to all public records for personal inspection and copying, except those required to be kept confidential.
- Public records must be made available for public inspection without delay.



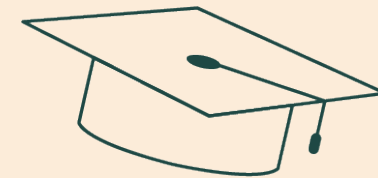
“Public Record”

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 the charter school or by a private person or entity in the performance of a service or function for or on behalf of the charter school or when such documents have been transferred to a private person or entity by the charter school for storage or future governmental use.

See O.C.G.A. § 50-18-70 et. seq.



Requests



- Can be made orally or in writing
- Any request other than one for student educational records must be treated as an open records request.
- The school can designate one or more employees as open records officers.



Responses

- Three business days.
- If records cannot be provided within three business days, provide an estimate as to when they will be available, the costs associated with the response, and whether any information will be withheld.
- If records or information will be withheld, the response must state the specific statutory authority for exempting the record.

Student Educational Records

- Personally-identifiable student information in educational records is exempt.
- Certain individuals may request student records pursuant to the Family Educational Rights and Privacy Act (FERPA).
- If documents requested pursuant to the open records act can be redacted to exclude personally-identifiable student information, the documents must be provided.



Fees for Producing Records

- For each physical page produced, you may charge \$.10.
- You may charge the hourly rate of the LOWEST paid capable employee for searching and producing responsive records, excluding the first 15 minutes.
- You **MAY NOT** charge attorney's fees for searching, producing, or responding to open records requests.



Common Exemptions

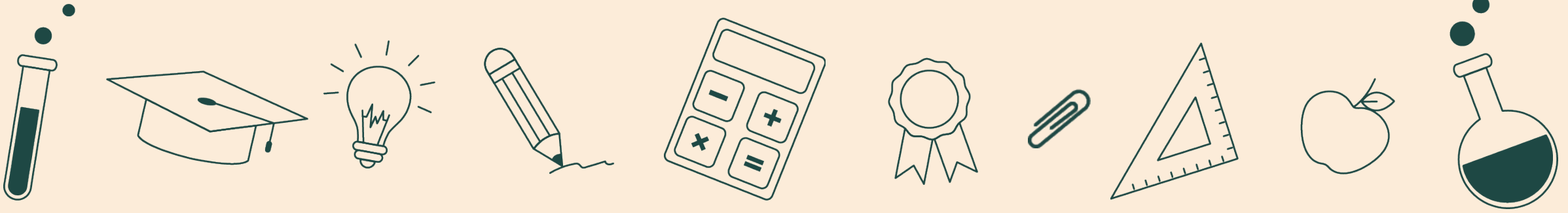
- School safety plans
- Secure test materials.
- Personal contact information for staff.
- Health insurance and financial information (not salaries) for staff.
- TKES/LKES evaluations.



Non-Exempt Records

- Records involving students not related to education
- Designated Directory Information under FERPA.
- Employee discipline actions.
- Employee salaries.
- Employee evaluations that are not TKES/LKES.





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