

Public Records

I. **Abstract**

As a public institution within the State of Florida, the University is subject to the Florida Public Records Law which is found in Chapter 119, Florida Statutes.* This Law provides that it is the “duty of each agency” to provide access to its public records to any person requesting such access. Public records requests should be routed through the department or unit to the Office of the General Counsel for handling. Certain records may contain information which is confidential and therefore exempted from disclosure. Confidential information which is not subject to the Public Records Law and which may not be disclosed in response to a public records request includes, without limitation, student education records and social security numbers.

II. **Helpful Contact Information**

Office of the
General Counsel
PC 511
Ext. 7-2103

Department Head
& University
Librarian
Vicky Silvera
Ext. 7-3136

III. **Rules of the Road**

a) Public Records Defined:

- i) Florida International University is a public state university subject to the Florida Public Records Law found at Chapter 119, Florida Statutes.
- ii) The Public Records Law defines public records as: “All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”
- iii) Under the Public Records Law the University is required to provide access to any public record upon request within a reasonable time of the request. There is no set time within which the University must respond, but documents that are readily available should be provided within twenty-four (24) hours, if possible.

*These materials have been adapted from Florida International University's Office of the General Counsel's Web site available at www.generalcounsel.fiu.edu.

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- iv) If you receive a public records request, the best procedure is to forward the request for public records to the Office of the General Counsel ("OGC"). OGC will advise on how to proceed. Please note that the person requesting the documents is not required to make the request in writing, provide reasons for the request, state the use that will be made of the documents requested or comply with any other similar requirement.
 - v) Once a determination has been made that the records requested are public records, the only requirement that the University may impose as a condition of release or disclosure of the documents is payment of \$0.15 per page (or \$0.20 per two-sided copies) or a previously, agreed-upon charge. If the nature or volume of public records to be copied requires extensive use of information technology resources or clerical or supervisory assistance, the University may add a special service charge, which shall be reasonable, in addition to the actual cost of duplication. The service charge should be based on the labor cost of the personnel involved in gathering and duplicating the records and other actual costs. An estimate of the charges should be given to the person making the request and obtain the person's approval prior to responding to the request.
 - vi) University faculty and staff should know that e-mails are public records and must not be destroyed except as provided for under the public records retention schedule. Some e-mail messages may be destroyed soon after receipt if they are in the nature of transitory messages with short-lived administrative value. These would be e-mails that would be used primarily to informally communicate transitory information and not designed to perpetuate or formalize knowledge. However, any e-mail record that exists at a time a request for public records is made must be disclosed if it falls within the scope of the request.
- b) Exemptions:
- i) Some records are not considered public records, such as personal notes, which are neither shared with anyone nor filed as a permanent record. These include notes made at a meeting that are kept solely for later recollection of the events, and the calendar that is maintained by any University employee. Additionally, drafts that are not circulated to others for comments are not public records. However, if these non-circulated documents are placed in the file "to perpetuate knowledge," they become public records and are subject to disclosure.

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- ii) There are also other documents which are exempted from disclosure under either the public records law or some special law. The exemptions that apply most often in the University setting include the following:
 - a) Academic evaluations of employee performance ([see Section 1012.91, Florida Statutes](#)).
 - b) Student records, except for "directory information." Directory information includes name, address and telephone number of students, major, dates of attendance and graduation, and information of a similar nature ([see Section 1002.22, Florida Statutes](#) and the federal law known as "FERPA" or the "Buckley Amendment"). Most of the records the University maintains concerning its students are student education records and are confidential.
 - c) Raw research data and other kinds of research records, including proprietary information or potentially patentable information.
 - d) Certain medical information maintained on employees, particularly information pertaining to disability.
 - e) Social security numbers.
 - f) Records maintained during the course of an investigation of an employee's misconduct or complaint of discrimination while the investigation is in process.

c) Records Retention Requirement:

Before destroying any public records, University protocol should be followed. The University has established records retention schedules that provide the length of time every University public record must be maintained. However, there are some records for which no retention schedule has been established and they can be destroyed when administrative value for the document is lost. Before destroying records for which a retention period has been established, the University is required to obtain authorization from Tallahassee. The person in charge of the records retention schedule at the University is the Department Head and University Librarian, who is the University's archivist.

The applicable records retention schedules followed by the University may be accessed at http://dlis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm

d) Sanctions:

The penalties for violating the Public Records Law include criminal sanctions and imposition of attorney's fees for the cost of enforcing the provisions of the Public Records Law.