

FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES



NOTICE OF AMENDED REGULATION

DATE: April 23, 2007

REGULATION CHAPTER TITLE: Human Resources

REGULATION TITLE AND NUMBER: 10.129 Limited Access Records

SUMMARY OF REGULATION: The amended regulation establishes clear policy and procedures for access to employment records and other employee information. The regulation also provides that University personnel records are public records; however, personnel records contain confidential information, such as social security numbers, health and/or other information which is exempt from production pursuant to the Sunshine Law. In addition, the Director of Human Resources is designated as the records custodian of central personnel files and provides that limited access records as defined in the regulation are confidential and subject to inspection only by the employee who is the subject of the records, the employee's representative University officials who use the information in carrying out their responsibilities, peer committees responsible for evaluating employee performance, and arbitrators or others engaged by the parties to resolve disputes, or by court order.

AUTHORITY FOR REGULATION: Article IX, Florida Constitution, Board of Governors Regulation Development Procedure dated July 21, 2005; Sections 1012.91 and 119.07, Florida Statutes.

UNIVERSITY OFFICIAL INITIATING THIS REGULATION: Dr. Janie Greenleaf, Assistant Vice President for Human Resources.

PROCEDURE FOR COMMENTS: Written comments concerning this proposed regulation must be submitted within 14 days of the date of this notice to the person identified below.

THE PERSON TO BE CONTACTED REGARDING THE AMENDED REGULATION IS: Dr. Janie Greenleaf, Office of Human Resources, 211 Foote-Hilyer Administration Center, Tallahassee, Florida 32307, (850) 599-3611 (phone), (850) 561-2080 (fax), janie.greenleaf@famu.edu.

FULL TEXT OF THE AMENDED REGULATION: The full text of the amended regulation follows:

Regulation of Florida A&M University



10.129 Limited Access Records.

(A) Policy.

(a) The University maintains the employment records and other employee information on ~~all~~ each of its employees. The purpose of this regulation is to establish clear policy and procedures for access to employment records and other employee information. Faculty, Administrative and Professional (A & P) including the Executive service, University Support Personnel System (USPS) and Other Personal Services (OPS) employees.

(b) ~~The e~~Employment records and other employee information ~~are~~ maintained by the University are subject to the provisions of this regulation and may also be subject to other laws or regulations that limit public access to the records or parts thereof. ~~in the office or department of the University's records custodians. For Faculty, the records are maintained by the Office of the Provost and Dean of the school or college in which the faculty member is employed. For A & P, USPS and OPS employees, the records are maintained by the Office of the Director of Personnel Relations~~ Human Resources.

(B) Access to Personnel Records.

(e) Generally, University personnel records are public records and under the Sunshine Law are open for public inspection. However, personnel records do contain confidential information, such as social security numbers, health and/or other information which is exempt from production pursuant to the Sunshine Law. Accordingly, prior to releasing any personnel records, employees should consult with their supervisor to ascertain what confidential information may not be released.

(a) Employees' social security numbers are not public records. An individual's social security number must be removed from any record inspected or released in response to a public records request.

(b) Personal information of law enforcement personnel and their immediate family members are not considered public records and are exempt from the General State Policy on Public Records under Section 119.07, F.S.

(2) The Director of Human Resources is the custodian of the central personnel files of University employees. All requests for inspection and/or duplication of personnel records must be made to the Office of Human Resources.

(a) Additional personnel information regarding faculty, undergraduate student employees and other employees may be under the custodial responsibility of the respective vice presidents, deans or directors. The custodians of such records are responsible for designating, in a manner consistent with the provisions of this policy, those University personnel who have access to limited access records and other employee materials not open to the public. Any University personnel who have access to such records and materials shall maintain their confidentiality.

(3) Records which are identified in this policy as “limited access” records are confidential and are not subject to inspection under the provisions of Chapter 119.07(1), F.S. Limited access records shall be available for inspection only by the employee who is the subject of the records, the employee’s representative, university officials who use the information in carrying out their responsibilities, peer committees responsible for evaluating employee performance, and arbitrators or others engaged by the parties to resolve disputes, or by others by court order. For the purposes of this policy, limited access records shall include:

(a) **For Records created on or before July 1, 1995** – Any and all records reflecting evaluations of employee performance.

(b) **For Records created after July 1, 1995** –

i. Records that reflect “academic” evaluations of employee performance. “Academic” for the purposes of this policy means performance evaluation documents regarding employees designated as Academic Personnel (AP), employees in the General Faculty pay plan prior to the implementation of the AP classification, or other employees subject to the faculty or academic personnel evaluation process. Examples of such records are those resulting from academic evaluation processes such as tenure, promotion, annual evaluation, student evaluation of teaching (except records comprising the common core items contained in the State University System Assessment of

Instruction instrument), Teaching Incentive Program (TIP), compression/inversion, other faculty awards, and merit increases. Records comprising the common core items contained in the University Student Assessment of Instruction instrument are not provided limited access status. The summary results of the common items, by course, shall be open for inspection in accordance with Chapter 119, F.S. However, raw data gathered on the forms completed by the students are limited access documents.

ii. Records maintained for the purposes of any investigation of employee misconduct. Such records shall be confidential until the investigation ceases to be active, the University concludes the investigation with a finding to proceed or not to proceed with disciplinary action, or the University issues a letter of discipline. The records shall be open to University personnel conducting the investigation, the administrator responsible for the appointment and assignment of the employee investigated, and their respective designees. To the extent necessary to meet the due process requirements of applicable University policies, or collective bargaining agreements, certain records of the investigation may be open to the employee investigated at the time indicated in the applicable policies, or agreements. A notice of proposed disciplinary action is confidential until a letter of discipline is issued or a decision is made not to proceed further with disciplinary action.

1. An investigation is presumed inactive if no finding is made within ninety (90) days, but the University may overcome that presumption through appropriate documentation in the records.

2. For sexual harassment investigations, portions of such records which identify the complainant, a witness, or information which could reasonably lead to the identification of the complainant or a witness, retain their confidential status even after the investigation is closed.

iii. Records maintained for the purposes of any disciplinary proceeding brought against an employee or of any grievance proceeding for enforcement of a collective bargaining agreement. Such records shall be confidential until a final decision is made in the proceeding. The records shall be open to University personnel conducting the proceeding, the administrator responsible for the appointment and assignment of the employee, and other University personnel representing the University in the proceeding. The record of the

proceeding itself, including any evidence presented during the proceeding, is open to inspection by the employee.

~~Any records or portions which are otherwise confidential by law shall continue to be exempt from the provisions of Section 119.07(1), F.S.~~

~~(d) — Except as required for use by the President or President's designee in the discharge of his or her official responsibilities, the custodian of limited-access records may release information from such records only upon authorization in writing from the employee or upon order of a court of competent jurisdiction.~~

~~(2) — This rule prescribes the contents and custody of limited-access records that the University maintains on its employees. Such limited-access records are confidential and exempt from the provisions of Section 119.07(1), F.S. Those records are limited to:~~

~~(a) — Records containing information reflecting academic evaluations of employee performance.~~

~~(b) — Records maintained for the purposes of any investigation of employee misconduct, including a complaint against an employee and all information obtained pursuant to the investigation of such complaint, shall be confidential until the investigation ceases to be active or the University provides written notice to the employee that it has:~~

~~1. — Concluded the investigation and is not proceeding with disciplinary action;~~

~~2. — Concluded the investigation with a finding to proceed with disciplinary action; or~~

~~3. — Issued a letter of discipline.~~

~~(3) — An investigation is presumed inactive if no finding is made within ninety (90) days after the complaint is filed. Records maintained for the purposes of any disciplinary proceeding are confidential until a final decision is reached. The record of proceeding and evidence presented are open to inspection by the employee at all times.~~

~~(4) — Records maintained for the purposes of a grievance proceeding brought by an employee for enforcement of a collective bargaining agreement or contract are confidential until a final decision is reached.~~

~~(5) — Sexual harassment investigations, portions of such records which identify the complainant, a witness, or information which could reasonably~~

~~lead to the identification of the complainant or a witness are limited access records.~~

Specific Authority Board of Governors Regulation Development Procedure Dated July 21, 2005, 1012.91, FS. 240.227(1), (27), 240.253(1) FS. Law Implemented Board of Governors Resolution Adopted January 7, 2003, 119.07, FS 240.227(5), 240.253 FS. History-New 6-3-01. Amended -07.