

FLORIDA GULF COAST UNIVERSITY

NOTICE OF REGULATORY ACTION

December 9, 2009

REGULATION TITLE:

Personnel Records: Limited Access

REGULATION NO.:

FGCU-PR5.019

SUMMARY:

The regulation, Personnel Records: Limited Access, (FGCU-PR5.019) is being modified to limit access by employees to certain records.

FULL TEXT:

The full text of the regulation being proposed is attached and can also be found at <http://www.fgcu.edu/generalcounsel/promulgation.asp>

LAW IMPLEMENTED:

§§1012.91 and 119.07(1), Florida Statutes

UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:

Vee Leonard, General Counsel

UNIVERSITY OFFICIAL APPROVING THE PROPOSED REGULATION:

Dr. Joseph Shepard, Vice President for Administrative Services and Finance

PERSON TO BE CONTACTED REGARDING THE PROPOSED NEW REGULATION:

Diane St. John, Administrative Assistant, dstjohn@fgcu.edu; (239) 590-1101 (Phone), (239) 590-7470 (Facsimile); 10501 FGCU Blvd. South, Fort Myers, FL 33965-6565

ANY COMMENTS REGARDING THE PROPOSED NEW REGULATION SHOULD BE SUBMITTED IN WRITING ON OR BEFORE DECEMBER 23, 2009 BY 5:00 P.M. THE COMMENTS MUST IDENTIFY THE REGULATION ON WHICH YOU ARE COMMENTING.

THIS NOTICE WAS POSTED ON THE FGCU WEBSITE ON: DECEMBER 9, 2009.



REGULATION: FGCU-PR5.019
Personnel Records: Limited Access

Effective Date of
Regulation:

January 20, 2009

(1) The Director of Human Resources is the official custodian of all ~~Administrative and Professional, Executive Service, Support Personnel and Non-Adjunct Other Personal Services (OPS)~~ University personnel records. The Provost and Vice President for Academic Affairs is the official custodian of all Faculty and Adjunct OPS University academic evaluative records. ~~personnel records.~~ As The official custodial for ~~these~~ personnel records, the Director of Human Resources shall designate those staff members and University officials who shall have access to the records of University personnel. In accordance with Florida law, the University designates the following records as "limited-access records" which are confidential and exempt from the provisions of Section 119.07(l), F.S. ~~Such limited-access records shall be open to inspection by the employee who is the subject of the records, by University officials responsible for the supervision of the employee, and by the President as required for use in the discharge of his/her official responsibilities.~~

(a) Academic evaluations - Personnel records containing information reflecting academic evaluations of an employee's performance such as, but not limited to, tenure, promotion, annual evaluation, Teacher Incentive Program, faculty awards, merit increases and student course evaluation except as noted herein, are designated as limited-access records. Records comprising the common core items contained in the State University System 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, the raw data gathered on the forms completed by the students are limited-access documents and not

subject to public inspection. Records containing information under this provision shall be open for inspection only by the employee and by the officials of the University responsible for supervision of the employee.

(b) Investigations of misconduct - Records maintained for the purposes of any investigation of an employee's alleged misconduct, including but not limited to a complaint against an employee and all information obtained pursuant to the investigation thereof, shall be confidential until the investigation ceases to be active or until the University provides written notice to the employee who is the subject of the complaint that the University has either (i) concluded the investigation with a finding not to proceed with disciplinary action; (ii) concluded the investigation with a finding to proceed with disciplinary action; or (iii) issued a letter of discipline. For the purpose of this paragraph, an investigation shall be considered active for as long as it is continuing with a reasonable, good faith anticipation that a finding will be made in the foreseeable future. There shall be a rebuttable presumption that an investigation is inactive if no finding is made within 90 days after the complaint is filed. Otherwise, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that a finding will be made in the foreseeable future.

(c) Disciplinary proceedings - Records maintained for the purposes of any disciplinary proceeding brought against an employee shall be confidential until a final decision is made in the proceeding. The record of any disciplinary proceeding, including any evidence presented, shall be open to inspection by the employee at all times.

(d) Grievance proceedings - Records maintained for the purposes of any grievance proceeding brought by an employee for enforcement of a collective bargaining agreement or contract shall be confidential and shall be open to inspection only by the employee and by University officials conducting the grievance proceeding until a final decision is made in the proceeding. A decision shall be "final" for the operation of this regulation when an arbitration

decision has been issued, or when a step decision has been issued and the time for appeal to the next step has expired without further appeal.

(2) Notwithstanding the foregoing, any records or portions thereof which are otherwise confidential by law shall continue to be exempt from the provisions of s. 119.07(l), F.S. In addition, 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 are limited-access records.

(3) Except as noted above, the custodian of limited-access personnel records may release information from such records only upon authorization in writing from the employee or upon order of a court of competent jurisdiction.

Action by Florida Gulf Coast University Board of Trustees:

| *Approved:* ~~1/20/09~~ _____

Law Implemented:

§§1012.91 and 119.07(1), Florida Statutes

History of Rule:

New 04/17/97; Amended 12/19/99, 1/20/09

History of Regulation:

| New 06/17/08, Amended 1/20/09, _____

Effective Date of Regulation:

| ~~1/20/09~~ _____