

**THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES
NOTICE OF PROPOSED REGULATION**

REGULATION TITLE: Personnel Records and Limited Access Records.
REGULATION NO.: FPU-6.007

SUMMARY OF THE REGULATION: The regulation provides policy and procedures for access to University employee records and other employee information. The policy defines the records that are limited access records.

TEXT OF REGULATION: The full text of the Proposed Regulation can be viewed below and on the website of The Florida Polytechnic University Board of Trustees, <http://floridapolytechnic.org/board-of-trustees/university-policies-and-regulations/>. If you would like a copy of the Proposed Regulation, please contact Bacogie Luke, Administrative Assistant to the VP and General Counsel at (863)583-9061.

AUTHORITY: Board of Governors Regulations 1.001, and Florida Statutes §1012.91

NAME OF PERSON INITIATING PROPOSED REGULATION: Gina DeJulio

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

THE CONTACT PERSON REGARDING THIS REGULATION IS: Bacogie Luke, Administrative Assistant to the VP and General Counsel at 439 South Florida Avenue, Suite 300, Lakeland, Florida 33810, Email: bluke@floridapolytechnic.org, Phone: (863)583-9061, Fax: (863)583-9070.

DATE OF PUBLICATION: May 17, 2013

THE FULL TEXT OF THE PROPOSED REGULATION IS PROVIDED BELOW:

FPU-6.007 Personnel Records and Limited Access Records.

(1) Purpose. The purpose of this regulation is to establish clear policy and procedures for access to employment records and other employee information.

(2) Personnel Records and Sunshine Law. Employment records and other employee information 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. Generally, University personnel records are public records and under the Sunshine Law are open for public inspection. However, personnel records may contain confidential information, such as social security numbers, health information, and/or other information which is exempt from production pursuant to the Sunshine Law and therefore such confidential information must be redacted prior to allowing inspection of or releasing copies of such records. Accordingly, prior to releasing a personnel record pursuant to a public record request, an employee must consult with the Office of the General Counsel.

Examples of information that is not a public record, and is therefore confidential, include:

- (a) Employees' social security numbers.
- (b) Specific personal information of law enforcement personnel and their immediate family members.

(3) Custodian. Human Resources is the custodian of the central personnel files of University employees. Additional personnel information may be maintained under the custodial responsibility of the vice presidents, deans, or directors. The custodians of such personnel records are responsible for designating, in a manner consistent with the provisions of this regulation, the University personnel who have access to the employee information not open to the public (including limited access records). All requests for inspection or duplication of personnel records must be made to Human Resources. Copies of the records may be furnished upon request at a cost of \$0.15 per page.

(5) Limited Access Records. Records which are identified in this regulation as "limited access" records are confidential and are not subject to inspection under the provisions of Florida Statutes section 119.07. Limited access records shall be available for inspection only by the employee who is the subject of the records, the employee's representative as authorized by the employee in writing, University officials who use the information in carrying out their university responsibilities, peer committees responsible for evaluating employee performance, arbitrators or others engaged by the parties to resolve disputes, or by others pursuant to court order or applicable law. Any University personnel who have access to limited access records and information shall maintain the confidentiality of such records and information. For purposes of this policy, limited access records shall include:

- (a) Records that contain information reflecting "academic" evaluations of employee performance. "Academic," for purposes of this policy, means performance evaluation documents regarding employees designated as Academic Personnel (AP), 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 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 programs, 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 information.

(b) Records maintained for the purposes of any investigation of employee misconduct. Records maintained for purposes of an investigation of employee misconduct shall be confidential until the investigation ceases to be active; or the University provides written notice to the employee who is the subject of the complaint that the University has either concluded the investigation with a finding to proceed or not to proceed with disciplinary action, or has issued a letter of discipline. The records shall be open to University employees 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 regulations, 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.

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

(ii) Sexual harassment investigations. 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 related to certain disciplinary or grievance proceedings. 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 brought by an employee 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.

Authority: §1012.91, FS.

History: NEW _____