

SUBJECT: Florida Public Records Act: Scope and Compliance	Effective Date: 1/14/2014	Policy Number: 2-100.4
	Supersedes: 2-100.3	Page Of 1 6
	Responsible Authority: Vice President and General Counsel	

DATE OF INITIAL ADOPTION AND EFFECTIVE DATE: 8/15/2004

APPLICABILITY/ACCOUNTABILITY

This policy applies to all University of Central Florida departments, units, and employees.

DEFINITIONS

Public Records. All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material, regardless of physical form, or 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, which are used to **perpetuate, communicate, or formalize knowledge.**

POLICY STATEMENT

It is the policy of the University of Central Florida to comply with Florida's public records law and Florida's retention schedules for public records.

All documents and other written materials that are made or received pursuant to law or that are made or received in the transaction of official university business and are used to perpetuate, communicate, or formalize knowledge are public records, which, regardless of form, are open for public inspection unless the legislature has specifically exempted them from disclosure. **Most documents, including email messages and text messages, created or received by University of Central Florida employees in connection with official business are public records.** Unless a public record is exempt by statute from disclosure pursuant to the public records statute, it must be produced to any person upon request. Before documents are released pursuant to a public records request, any exempt documents or exempt information contained within documents must be removed.

PROCEDURES

I. Identification and Retention of Public Records

A public record can be in any format (including email, text message, letter, notes, spreadsheet, ledger, etc.), as long as (i) it is made or received pursuant to law or ordinance or in connection with the transaction of official business and (ii) it is used to perpetuate, communicate, or formalize knowledge. Additionally, ownership of the device, machine, or account in which a record is created is irrelevant to whether the record is a public record. For example, if an employee communicates regarding official business through a personal email account, those messages will be public records, assuming the messages otherwise meet the definition of public records.

Certain documents, even when created in the course of conducting official business, do not meet the definition of public records because they do not perpetuate or formalize knowledge. For example, transitory messages are created primarily for informal or short-lived communication. Transitory messages do not set policy, establish guidelines or procedures, certify a transaction, serve as a receipt, or other similar non-transitory messages. Instead, transitory messages serve primarily to communicate information of short-term value, such as a meeting reminder or an inquiry as to an employee's presence. The informal, time-limited nature of transitory messages can be compared to communications during a telephone conversation or in an office hallway. Transitory messages generally include, but are not limited to, voice mail or phone messages, self-sticking notes, and email messages with short-lived or no administrative value. Documents of this type need only be kept as long as their short-term value lasts. For example, if a message is sent out reminding participants of a meeting at 2:00 p.m., then the message has no further value after the meeting occurs.

Another example of records which do not meet the definition of public records, even when created in the course of official business, are notes or drafts created by an employee for their personal use. So long as these personal notes or drafts are neither shared with anyone nor filed as a permanent record of events, they are not public records. These may include notes made at a meeting that are kept solely for later recollection of the events; drafts that are not circulated to others for review or comments; and notes created by an employee to organize her/his thoughts for the later creation of a formal document. However, if these non-circulated documents are placed in the file "to perpetuate knowledge," they become public records and are subject to disclosure.

Employees may not delete public records for which they are the custodian except in accordance with the record retention schedules applicable to UCF as a state university.

All public records must be retained for a period of time that varies depending on the nature of the documents. Retention periods for public records can be found in the university's general records and the state and local agencies' retention schedules (see Related Information for links to these schedules).

It is acceptable to retain in paper form documents that were originally sent in electronic form and vice versa. For example, employees may archive electronic mail messages for retention purposes or they may print mail messages to be filed and retained. Similarly, files may be scanned into an electronic database and the original paper files discarded.

II. Receiving a Public Records Request

Any department or office may be the recipient of a public records request, except that requestors whose requests fall into specific categories listed in Section IV below should be directed to the appropriate office designated by this policy. Thus, media requestors (or requests, as appropriate to the circumstances) should be directed to UCF News and Information; and requestors (requests) seeking university statistical data should be directed to UCF Institutional Knowledge Management. If the request seeks information that is in the possession or custody of the department or office receiving the request, then that department or office should accept the request and proceed to respond to it in accordance with the instructions below, or should designate an individual in another office (such as UCF News and Information) to respond. If the department or office receiving the request is not the custodian of the records requested, then the request (or, if feasible, the requestor) should be forwarded to the appropriate department or office in possession or custody of the requested records (or to the appropriate office as listed in Section IV). If the request seeks records held by multiple offices and the requestor has made the request to an office which holds at least some of the records requested, that office should either receive the request and forward appropriate portions of the request to other departments or offices as needed or should designate an individual in another office to respond. **The department should send a copy of the public records request to the UCF Office of the General Counsel to provide guidance in determining what records are exempt from disclosure.**

III. Format for a Public Records Request

There is no particular format for a public records request. Public records requests may be made in writing or orally. A department receiving a request for public records may ask that the requestor put his or her request in writing for the sake of clarity, and may even suggest the use of a particular form, but may not require it. A person does not have to prove a "legitimate" need for a public record to be entitled to inspect it.

IV. Designated Offices for Specific Request Categories

All public records requests seeking university statistical data (such as student enrollment figures or lists of employees) or demographic data should be forwarded to the UCF Institutional Knowledge Management Office, 12424 Research Parkway, Suite 215, Orlando, FL 32826-3269, (407) 823-5061.

All public records requests seeking university personnel records should be forward to UCF Human Resources, 3280 Progress Drive, Suite 100, Orlando, FL 32826-0140, (407) 823-2771.

All public records requests seeking business services records, such as records relating to Card Services or Dining Services, should be forwarded to UCF Business Services, 12479 Research Parkway, Ste. 600, Orlando, FL 32826-0055, (407) 823-2624.

All public records requests seeking purchasing records, including procurement forms and details, should be forwarded to the UCF Purchasing Department, Orlando Tech Center, 12479 Research Parkway, Orlando, FL 32826-0050, (407) 823-2661.

All media requests should be referred to the UCF Department of News and Information, 12443 Research Parkway, Suite 301, Orlando, FL 32826-0091, (407) 823-5007.

All requests from legal offices or relating to legal matters, including regulation development, should be referred to the UCF Office of the General Counsel, 4365 Andromeda Loop N., MH360, Orlando, FL 32816-0015, (407) 823-2482.

These designated departments will coordinate the response to the request with the requestor and, as applicable, the appropriate department or unit responsible for maintaining the records.

All other requests should be handled by the department(s) or office(s) responsible for maintenance of the requested records, or by the office or individual designated for handling the request.

V. A. Responding to a Public Records Request

The university must respond to a public records request within a reasonable period of time after receiving the request. What constitutes a reasonable period of time depends upon the circumstances surrounding the request, including the nature of the request, the size of the request, the likely quantity of records to be produced, whether extensive use of information technology resources or clerical services is required, whether the requestor or the department or custodian has multiple requests pending, staffing levels, and the timing of the request (e.g., whether holidays intervene).

The department chair or administrative supervisor of the department or unit in which the records are maintained is responsible for appointing one or more persons to gather the requested documents. When the response to the request is being coordinated by another office such as UCF Institutional Knowledge Management or UCF News and Information, the respondent may either arrange a time for inspection of the documents or provide copies of the documents to the requestor.

Any department or office may seek assistance from the UCF Office of the General Counsel to determine how to respond to a request, identify exempt and confidential information, and calculate any appropriate charges for the request. Where records are requested from multiple departments or offices in one request, the request may be divided amongst those departments or offices or the UCF Office of the General Counsel may intervene to coordinate the response to the request.

V. B. Public Record Exemptions

Records must be reviewed for exempt material prior to being produced in response to a public records request. State and federal laws exempt certain types of public records, or portions thereof, from disclosure under the public records law. Exemptions that frequently apply to University of Central Florida records include but are not limited to:

- a. academic evaluations of faculty
- b. education records pursuant to the federal and state Buckley Amendments, also known as the FERPA exemption
- c. social security numbers
- d. certain types of research records
- e. most direct support organization records
- f. personally identifiable medical information
- g. most benefit enrollment information
- h. bank and other financial information (e.g., credit card data)
- i. personal information regarding law enforcement officers or their families.

Documents that are exempt from the public records law will not be produced to the public, even if requested. Documents that are public records but contain exempt information will be produced after removing the exempt information, unless the exempt information in the document is so extensive that removal is not feasible. The determination of which documents or information are exempt from the public records law will be made by the UCF Office of General Counsel.

VI. Payment for Public Records Requests

If the person making the records request has requested copies of the documents, the university may charge the requestor 15 cents per one-sided copy or 20 cents per two-sided copy. In addition, if retrieving or copying the public records requires extensive use of information technology resources or clerical and/or supervisory assistance, the university may assess a reasonable service charge based on the university's actual incurred costs. Reimbursement for these charges may be made to the department or unit that incurred the charge. For purposes of this policy, extensive use means at least one hour's worth of time (whether in response to a single request or multiple requests received in a one-month period of time). **An estimate of the charges will be given to the requestor prior to responding to the request. All charges will be collected before producing the requested documents.**

RELATED INFORMATION

Policy 4-001 Retention Requirements for Electronic Mail:

<http://policies.ucf.edu/documents/4-001.1RetentionRequirementsforElectronicEmailFinalLetterhead05102013.pdf>

Florida Public Records Act: Chapter 119, Florida Statutes, available at

<http://www.flsenate.gov/Laws/Statutes/2014>

Family Educational Rights and Privacy Act (FERPA): full text of regulations available at

<http://www2.ed.gov/policy/gen/reg/ferpa/index.html>

General records retention schedule for state and local agencies (Schedule GS1-SL):

<http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>

General records retention schedule for public colleges and universities (Schedule GS5):

<http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>

INITIATING AUTHORITY

Vice President and General Counsel

POLICY APPROVAL (For use by the Office of the President)	
Policy Number: <u>2-100.4</u>	
Initiating Authority: <u><i>[Signature]</i></u>	Date: <u>1/9/14</u>
Policies and Procedures Review Committee Chair: <u><i>[Signature]</i></u>	Date: <u>1/7/2014</u>
President or Designee: <u><i>[Signature]</i></u>	Date: <u>1/14/14</u>

History 2-100, 2-100.1, 2-100.2