



## FGCU REGULATION 5.019

*Effective Date  
of Regulation*

### **Personnel Records: Limited Access**

*January 11, 2022*

- A. The Chief Human Resources Officer is the official custodian of all University personnel records, with copies of faculty academic evaluation records held within the Division of Academic Affairs. As the official custodian for personnel records, the Chief Human Resources Officer 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(1), Florida Statutes.
1. Faculty academic evaluations: Personnel records containing information reflecting academic evaluations of an employee's performance such as, but not limited to, promotion, annual evaluation, 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 Perception of Instruction instrument are not provided limited-access status. The summary results of the common core items, by course, shall be open for inspection in accordance with chapter 119, Florida Statutes. 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.
  2. 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:
    - a. Concluded the investigation with a finding not to proceed with disciplinary action;
    - b. Concluded the investigation with a finding to proceed with disciplinary action; or
    - c. 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 ninety (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 pre-seeable (sic) future.

3. 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.
4. Grievance/appeal 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.

- B. Notwithstanding the foregoing, any records or portions thereof which are otherwise confidential by law shall continue to be exempt from the provisions of section 119.07(1), Florida Statutes. 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.
- C. 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.

*Authority:*

*Sections 1012.91 and 119.07(1), Florida Statutes*

*History of Regulation:*

*New 06/17/08, Amended 01/20/09, Amended 01/19/10; Amended 09/14/21; Amended 01/11/20*

*Approved by Florida Gulf Coast University Board of Trustees:*

*January 11, 2022*