Q. What is a public record?
A. Section 119.011(12), F.S., defines "public records" to include:

- all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, 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.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge. *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633, 640 (Fla. 1980). All such materials, regardless of whether they are in final form, are open for public inspection unless exempted. *Wait v. Florida Power & Light Company*, 372 So. 2d 420 (Fla. 1979).

The term "public record" is not limited to traditional written documents. "[T]apes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission" can all constitute public records. Accordingly, "the form of the record is irrelevant; the material issue is whether the record is made or received by the public agency in connection with the transaction of official business." AGO 04-33. *And see National Collegiate Athletic Association v. The Associated Press*, 18 So. 3d 1201 (Fla. 1st DCA 2009), review denied, 37 So. 3d 848 (Fla. 2010) ("public records law is not limited to paper documents but applies, as well, to documents that exist only in digital form"). *Compare Rogers v. Hood*, 906 So. 2d 1220, 1223 (Fla. 1st DCA 2005), review denied, 919 So. 2d 436 (Fla. 2005) (unused or unvoted Florida punch card ballots from 2000 election do not constitute public records because they do not "perpetuate, communicate, or formalize knowledge," but a ballot becomes a public record once it is voted because at that point "the voted ballot, as received by the supervisor of elections in a given county, has memorialized the act of voting").

Q. Are personal notes public record?
A. Usually not. Personal notes, which are neither shared with anyone nor filed as a permanent record, are not public records. "[U]nder chapter 119 public employees' notes to themselves which are designed for their own personal use in remembering certain things do not fall within the definition of 'public record.'" (e.g.) *The Justice Coalition v. The First District Court of Appeal Judicial Nominating Commission*, 823 So. 2d 185, 192 (Fla. 1st DCA 2002). *Accord Coleman v. Austin*, 521 So. 2d 247 (Fla. 1st DCA 1988), holding that preliminary handwritten notes prepared by
agency attorneys and intended only for the attorneys' own personal use are not public records; Inf. Op. to Trovato, June 2, 2009 (to the extent city commissioner has taken notes for his own personal use and such notes are not intended to perpetuate, communicate, or formalize knowledge, personal notes taken at a workshop or during a commission meeting would not be considered public records). These include notes made at a meeting that are kept by the individual solely for later recollection of the events. However, if these non-circulated notes are placed in the file "to perpetuate knowledge," they become public records and are subject to disclosure.

Q. Are there records which are not subject to public disclosure even though they are public record?
A. Yes. There are various categories of documents which are public record because they were sent or received in the course of conducting official university business, but which are not subject to disclosure in response to a public records request because of a specific exemption in the law. The exemptions that apply very often at the University include the following:

- Academic evaluations of employee performance (see Section 1012.91, Florida Statutes).
- Education records, except for "directory information." Directory information includes name, address and telephone number of students, major, dates of attendance and graduation, and information of a similar nature (see Section 1002.225 and 1006.52, Florida Statutes and FERPA). Most of the records the University maintains concerning its students are education records and are confidential.
- Raw research data and other kinds of research records, including proprietary information or potentially patentable information.
- Certain medical information maintained on employees, particularly information pertaining to disability.
- The social security numbers of University employees.
- Records maintained during the course of an investigation of an employee's misconduct or complaint of discrimination while the investigation is in process.

Q. Does the University have a policy addressing the handling of public records requests?

That policy outlines how to handle certain types of routine requests (such as request for personnel records or demographic data on students) and also gives guidance on other types of requests.

The Office of the General Counsel can help with any questions relating to a public records request. For media requests, notify News & Information for help.