



Overview:

Public Records Requests, University Regulations, Confidentiality Agreements,
Foreign Hiring and Travel

Public Records Requests – A Few Short Suggestions

A public records request is likely the last thing you want to receive. A request may cause confusion and concern, for various reasons. Often, the request doesn't make sense; we don't know if we have these documents; or we think the request should go to another department. This short article should provide the framework to make the task easier. Here are three key points to keep in mind.

The basics of public records can be found in Florida Statutes Chapter 119, but the Office of the General Counsel has staff dedicated to help apply these laws and assist departments with public records issues. The public records law applies to the University and states "It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency." If you receive a request and are uncertain as to how to handle it, or think it may be exempt from disclosure, please contact our office – the information is below – or stop by.

Second, a request is only for existing records, so please do not create records in response to a request. The University will respond in the native format in which we store the records.

If we do not have the requested records, we will let the requestor know that we do not have responsive records. If you create a new document, then that it becomes a new public record. We do not want to create more records; we want to provide the ones we already have.

Finally, email is one of the most common targets of records requests, so being efficient with email is one important way to reduce the burden of responding to public records requests. Start by keeping communications professional and work related. Redacting personal communications can be time consuming and often does not happen before records are released. Remaining professional can prevent personal details from being exposed. Also, if its suitable you may want to consider separating topics into different threads. It is tempting to send one email discussing all your ongoing topics with the recipient(s) of your message. When multiple topics are mixed together in a single email chain, all the unrelated material may be released in a request for different information. Finally, be wary of reply all. Check if every single person needs your response. For public records requests, reply all can substantially increase the burden

and cost of responding because there will be multiple editions of the same record.

If you have more questions about public records or would like to set up a time for a group public records training, please feel free to reach out to the Office of the General Counsel at 407-823-2482 or gcounsel@ucf.edu.



By Kalyn Knight, Public Records Coordinator



University Regulations

Regulations are statements of general applicability to guide the actions of the university; They are a bit like “university-wide” laws. Regulations must be consistent with federal law, state law, and Florida Board of Governors regulations.

Regulations should not be confused with policies, which are statements of practice, sometimes with included procedures, to provide direction and assistance to the university community in the conduct of university business activities when statutes, rules, and regulations do not provide specific guidance or do not offer procedures or implementation directives necessary for efficient university operations.

Regulations are adopted, amended, and repealed using a procedure set by the Board of Governors. Prior to the adoption, amendment, or repeal of any regulation, public notice must be given at least 30 days before the Board of Trustees meeting at which the item will be considered. Notices include the full text of the regulation and a summary of proposed amendments.

Regulations, except select regulations, are considered adopted and affected upon approval by the UCF Board of Trustees. Select regulations pertain to student tuition and fees, admissions, and articulation. Select regulations become effective upon approval by the Board of

Governors.

All regulations and notices, including an archive of notices, can be found at regulations.ucf.edu. They are arranged by chapter which is based on content. If you wish to search the archives, we recommend using the search bar at the top of the Notice Archives page due to the volume of the documents.

Each time a regulation is proposed for adoption, amendment, or repeal an email notification goes out via our listserv. To subscribe to these mailing lists, there is a link on the UCF Regulations website. You may also send an email to regulations@ucf.edu to be added or removed from the list.



-Tanya Perry, Legal Services Coordinator and Regulations Administrator

Foreign Hiring and Travel

The “foreign influence bill,” an act focused on protecting universities from undue foreign influence and protecting intellectual property, became law on July 1, 2021. The statute will almost certainly slow research related hiring during the coming year and impact employment-related foreign travel.

Applicants for research positions and research related support positions will now be required to undergo extensive screening and documentation. This additional screening must be completed before an applicant may be invited for final interview or offered a position. A research integrity office, designated by the university president, will be responsible for reviewing all documentation submitted by applicants, and verifying all information provided on their resume or curriculum vitae. The statute also applies to certain undergraduate and graduate students applying for research positions or research related support positions, as well as certain visiting research applicants. These new screening requirements apply to:

- Individuals who are citizens of any foreign country and are not permanent U.S. residents
 - U.S. citizens/permanent residents who have any affiliation with an institution or program in a “country of concern”—China, Russia, Iran, North Korea, Syria, Cuba, or Venezuela
 - U.S. citizens/permanent residents who have been employed or received training for at least a year in an organization in a country of concern. [Except that U.S. citizens/permanent residents employed

by the U.S. government in a country of concern are exempt.]

In addition to new hiring requirements, the law imposes new reporting requirements related to foreign travel. Beginning January 1, 2022, any employment related foreign travel and employment related foreign activities engaged in by all faculty, researchers, and research department staff must be preapproved by the research integrity office. The university must maintain records of all foreign travel requests and approvals, the purpose of the travel, expenses reimbursed by the university and all payments or honoraria received. For travel to countries of concern, the university must provide an annual report to the Board of Governors listing individual travelers, foreign locations visited, and foreign institutions visited.

These new screening and reporting requirements related to hiring and international travel will have far reaching impacts on the way we have traditionally done business and will require some adjustment. A working group including representatives from Faculty Excellence, Office of Research, Office of Institutional Equity, Human Resources, UCF Global, University Compliance, Ethics and Risk, and General Counsel, among others, has been working for several months to develop policies and procedures for implementing the statute here at UCF. We ask for your patience as we work through this very complex law.

-Sherry Andrews, Associate General Counsel and Associate Provost



Ten Questions About Confidentiality Agreements

10. I hear “NDA” and “CDA”, which is correct?

NDA = “Non-Disclosure Agreement”

CDA = “Confidential Disclosure Agreement”

Either is fine, or simply, “Confidentiality Agreement”

9. How do I know when I need to stop exchanging information under a CDA?

Check the term of the agreement.

Term = The period-of-time from the Effective Date to the end of the Agreement.

Example: A one-year CDA term allows confidential information to be exchanged during only that one year. Also, sometimes there can be early termination, or there can be an extension.

8. How long do I need to keep the information in confidence?

The confidentiality period is very rarely the same as the term, but is often based upon the term.

Example: The information remains protected for at least one year after the agreement ends.

Occasionally, the confidentiality period is set by the date of receipt of the information. This is more challenging and not preferred because if ten pieces of confidential information are received under one agreement, each on a different day, rather than having one date when the obligations expire, there would be ten dates to remember.

*Keep in mind this is also how long we require the other party to keep UCF information confidential.

7. Why does information need to be marked?

If documents are disclosed, or received, without being marked as “Confidential”, there is no indication to the reader that the information should not be further discussed. Especially over time, such as during the period of a typical project, managing confidentiality obligations without marked identification is extremely challenging.

*Keep in mind this is also how the other party will be identifying UCF confidential information that must be protected.

6. If something is marked “confidential”, does that keep it from being a public record?

No, but it does help to initially set-aside that record for further consideration. Public records include all docu-

ments (and more) made or received in connection with official business of the university. Only categories of information that are exempt by statute may be excluded from public records production, irrespective of marking. When a records request is received, representatives from the Office of General Counsel review and redact exempt information/documents before release.

5. Can we destroy or agree to destroy another party’s confidential information?

No. UCF is required to retain all public records, even exempt public records, according to Florida records retention schedules.

4. What if the information is export controlled?

Export controlled information may or may not be confidential to a party, and confidential information may or may not be export controlled. Export control plan details must be worked out with the Office of Export Control.

3. What can the information be used for?

Each agreement should define the “purpose” and this limits how the information can be used. Example: At UCF, the purpose is commonly related to performance of a research project or may be more limited to early stage evaluation of a potential collaboration. To change the purpose, either a new agreement or an amendment is necessary.

*Keep in mind this also is what limits what the other party can do with UCF information.

2. Who can I talk to about the confidential information?

Most agreements limit further disclosure to other UCF employees who “need to know.” If non-employees (including students or outside parties) need to know, contact your contract manager. A separate agreement with those individuals/parties will likely be required. Please note that some agreements require confirmation by signature of everyone who accesses confidential information, even UCF employees.

1. Can I disclose any sort of confidential information once the agreement is in place?

Each agreement should define a specific topic. Only confidential information that fits within that topic should be disclosed.

-Sandra Sovinski, Deputy General Counsel for Research