

FRANCIS MARION UNIVERSITY
Human Resources Office

SUBJECT: Freedom of Information Act Policy

Revised: 3/16/95

Revised: 10/1/98

Revised: 2/1/02

FREEDOM OF INFORMATION ACT POLICY

THE LANGUAGE USED IN THIS POLICY DOES NOT CREATE A BINDING EMPLOYEE CONTRACT BETWEEN THE EMPLOYEE AND THE UNIVERSITY. THE UNIVERSITY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY, IN WHOLE OR IN PART.

The South Carolina Freedom of Information Act #593, effective July 18, 1978, was enacted by the General Assembly to insure that "public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy." Amendments to this Act in 1998 requiring disclosure of certain information about applicants for positions are addressed under "Disclosure of Applicant Information" below.

The Office of the Vice President for Business Affairs, the Office of the Vice President for Administration, the Office of the Executive Director of Communications Services and the Office of the President shall normally be the only authorized departments to release information under this act.

- A. The Office of the President or the Office of the Vice President for Administration, acting in concert with the individual who received the request and the department or individual who is the custodian of the record(s), shall be responsible for responding to all personnel-related non-media Freedom of Information Act requests, both internal and external.
- B. The Office of the President or the Office of the Executive Director of Communications Services, acting in concert with the individual who received the request and the department or individual who is the custodian of the record(s), shall be responsible for responding to all Freedom of Information Act requests made by the media.
- C. The Office of the President shall be responsible for responding to all Freedom of Information Act requests pertaining to the Board of Trustees.
- D. The Office of the President or the Office of the Vice President for Administration, acting in concert with the individual who received the request and the department or individual who is the custodian of the record(s), shall be responsible for responding to all requests not covered in A, B, or C above.

- E. Individuals receiving Freedom of Information Act requests shall forward such requests in a timely manner to the appropriate office as described above. A final determination as to the release of the information must be made within 15 work days of the date the University received the request.

Following is a listing of the most frequently requested information as well as certain information which cannot be released. Also attached are the procedures which must be used in releasing this information.

Information which must be released includes, but is not limited to:

Compensation of Francis Marion University employees shall be considered public records as described in the following:

- A. Compensation for those persons receiving \$50,000 or more annually, all part-time employees, persons paid honoraria or other compensation for special appearances, performances or the like, and for employees at the level of agency or department head, the exact compensation of each person or employee.
- B. For classified and unclassified employees, including contract instructional employees, not subject to (A) who receive compensation between, but not including, \$30,000 and \$50,000 annually, the compensation level within a range of \$4,000, such ranges to commence at \$30,000 and increase in increments of \$4,000.
- C. For classified employees not subject to (A) who receive compensation of \$30,000 or less annually, the salary schedule showing the compensation range for the classification including longevity steps, where applicable.
- D. For unclassified employees, including contract instructional employees, not subject to (A) who receive compensation of \$30,000 or less annually, the compensation level within a range of \$4,000, such ranges to commence at \$2,000 and increase in increments of \$4,000.

Additional matters subject to disclosure under the Freedom of Information Act include, but are not limited to, the following:

- A. The names, sex, race, title and dates of employment of all employees and officers of the University;
- B. Administrative staff manuals and instructions to staff that affect a member of the public;
- C. Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- D. Those statements of policy and interpretations of policy, statute and the Constitution which have been adopted by the Board;
- E. Written planning policies and goals and final planning decisions;

- F. Information in or taken from any account, voucher or contract dealing with the receipt or expenditure of public or other funds;
- G. The minutes of all proceedings of all public bodies and all votes at such proceedings, with the exception of all such minutes and votes taken at meetings closed to the public pursuant to the Act;
- H. Incident reports that disclose the nature, substance and location of any crime or alleged crime reported as having been committed. Where an incident report contains information exempt as otherwise provided by the law, the law enforcement agency may delete that information from the incident report;
- I. Certain salary information as noted above.

The Agency Head is the President, and Department Head means any person reporting directly to the President who has a department or departments reporting to him/her.

Information which is exempt from disclosure includes but is not limited to:

- A. Home addresses and telephone numbers of employees.
- B. Trade secrets.
- C. Information of a personal nature.
- D. Certain records of law enforcement and public safety agencies not otherwise available by law.
- E. All compensation paid by public bodies except as explained above.
- F. Scholastic records.
- G. Library circulation and registration records.
- H. Records of law enforcement and public safety activities as defined in the Act.
- I. Documents of and documents incidental to proposed contractual arrangements, and documents of and documents incidental to proposed sales or purchases of property.
- J. Correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships.
- K. Information relative to the identity of the maker of a gift to the University as a public institution if the maker specifies that his or her making of the gift must be anonymous and that his or her identity must not be revealed as a condition of making the gift. With respect to gifts, only information which identifies the maker may be exempt from disclosure. If the maker of any gift or any member of his or her immediate family has any business transaction with the recipient of the gift within three years before or after the gift is made, the identity of the maker is not exempt from disclosure.

- L. Matters specifically exempted from disclosure by statute or law.

For complete information or for a copy of the Act, please contact the Human Resources office.

Francis Marion University shall establish and collect fees not to exceed the actual cost of searching for and making copies of the record. The establishment of fees is subject to change without notice as required by the actual cost of the search and/or the record.

Information requested under this policy must be in accordance with the Freedom of Information Act and procedures established by Francis Marion University. (See Freedom of Information Act Procedures.)

FREEDOM OF INFORMATION ACT PROCEDURES

Procedures: When an employee or other individual requests information covered under the Freedom of Information Act, the request must be in accordance with the following procedures.

Responsibility

Action

Requestor

Completes the Freedom of Information Act Request form or submits a written request which details the degree and type of information being requested. This written request must be signed by the requestor and dated.

Employee Receiving Request

Accepts form or written request and hand carries the form to the President, the Vice President for Business Affairs, the Vice President for Administration, or the Executive Director of Communications Services.

Vice President for Business Affairs, Vice President for Administration, or Executive Director of Communications Services

Because of the timeframe involved in releasing information, makes an appointment with the President and takes the form to the President for approval.

President or Vice President for Administration

Completed form is then approved by the President before information is released. If the President is unavailable during the fifteen (15) day timeframe, the release of information must be approved by the Vice President for Administration.

President, Vice President for Business Affairs, Vice President for Administration, or Executive Director of Communications Services

Attempts to call the requestor to schedule a time for him/her to return for the information or to determine if the requestor would prefer that the information be mailed. If the information is to be mailed, payment for appropriate costs incurred, such as copy and labor expenses, must be received in advance of information being released.

President, Vice President for Business Affairs, Vice President for Administration, or Executive Director of Communications Services

Prepares the information requested and determines the appropriate costs. Bills the requestor for the costs.

Requestor

Forwards payment for cost of information being requested.

President, Vice President for Business Affairs, Vice President for Administration, or Executive Director of Communications Services

Upon receipt of payment, forwards or gives information to the requestor.

If the information requested is on an employee of Francis Marion University, it will be released in accordance with the Freedom of Information Act and in accordance with procedures established by Francis Marion University.

INFORMATION BEING REQUESTED ON AN EMPLOYEE BY AN EMPLOYEE, EMPLOYEE GROUP, PRIVATE INDIVIDUAL, OR PRIVATE GROUP OR ORGANIZATION

President or Vice President for Administration

Attempts to contact the employee with written notification sent to the employee, supervisor, and, if appropriate, the department head to tell him/her that an individual has requested salary or personal information on him/her.

President or Vice President for Administration

If unable to reach the employee, information will not be released until the employee is contacted or within fifteen (15) days as stipulated in the Freedom of Information Act.

Requestor

Returns to the Office of the Vice President for Administration, or to the Office of the President to receive information unless the information is mailed. The requestor will be responsible for reimbursing the University for appropriate costs incurred such as copy and labor expenses prior to information being released.

DISCLOSURE OF APPLICANT INFORMATION UNDER THE FREEDOM OF INFORMATION ACT POLICY (Effective 10-01-98)

INTRODUCTION

On June 12, 1998, Governor David M. Beasley signed into law amendments to South Carolina's Freedom of Information Act ("FOIA"), S.C. Code 30-4-10 et. seq. Among the amendments are two provisions that are the subject matter of this policy. First, public bodies must make available to a requestor under the FOIA the total number of applicants who applied for a specific employment position. Second, public bodies must disclose all materials gathered during the employment search for not fewer than the final three applicants under consideration for a position. This policy is intended to facilitate compliance with these amendments

Prior to Receiving a FOIA Request for Applicant Information

The following steps are to facilitate the processing of an FOIA request before it is received:

Creation of a Centralized Office/Individual To Process FOIA Requests

Dr. Gary W. Hanson, Vice President for Administration is designated as the centralized office/individual to process FOIA requests. All applicant information will be stored in this "centralized office" and Dr. Hanson is the designated custodian of this applicant information. The Office of the Vice President for Administration shall receive all FOIA requests for employment positions within Francis Marion University. The Office of the Vice President for Administration will be responsible for all correspondence to and from Francis Marion University regarding FOIA requests.

Determining the Total Number of Applicants for a Position

Dr. Hanson and the Human Resources office shall maintain a current count of the number of applications that are accepted for an open position. Once the position is filled or applications are no longer being accepted for that position, the applications should be grouped together with a final number of total applications accepted displayed clearly upon the front of the file folder in which the applications are kept or on an applicant log.

Standard Materials to Gather concerning an Applicant

The following is a list of materials that generally should be gathered for every applicant: state/FMU application and/or resume, reference checks, CDL drug testing for appropriate positions, and confirmation

of salary for a state employee. Again, standardized information that must become part of the applicant's file shall be determined by the nature of the position.

Materials that May Be Gathered concerning an Applicant

The following is a list of some materials agencies may want to gather dependent upon the specific position being filled: SLED checks, credit checks, school transcripts, driver's license record, drug tests, medical examinations, certification or licensing verification, proficiency test scores (word processing, typing, statutory DPPP & DNR writing samples), and personality test scores.

Fee Schedule

As authorized by the FOIA, Francis Marion University will charge the requestor for the cost of compiling the information, not to exceed the actual cost of searching for or making copies of documents. Fees charged will be uniform for copies of the same document. Members of the General Assembly may receive copies of documents at no charge when the request relates to legislative duties. The documents must be furnished at the lowest possible cost to the requestor. Documents may be furnished when appropriate without charge or at a reduced charge where the president or his designee determines that waiver or reduction of the fee is in the public interest because furnishing the document can be considered as primarily benefiting the general public. Fees will not be charged for examination and review to determine if the documents are subject to disclosure. Francis Marion University may charge a reasonable hourly rate for making documents available to the public and also require a deposit before searching for or making copies of the documents.

Determining Not Fewer than the Final Three Applicants for a Position

Once all applications have been gathered for a position and all interviews have been completed, the hiring authority must identify not fewer than the final three applicants for the position.

Upon Receipt of an FOIA Request for Applicant Information

Requiring a Written Request for Information

Francis Marion University will require all requests for information concerning applicants to be in writing.

Providing a Written Response to the Request

When Francis Marion University receives a written request under the FOIA for information concerning an applicant, the Francis Marion recipient will respond in writing to the request within fifteen days (excepting Saturdays, Sundays, and legal public holidays). The Human Resources office will provide this written information. Information in the response should include a summary of the information that will be provided under the request, a summary of any information that will not be disclosed and the reasons therefore, an estimate of the fees that will be charged, and any deposit, if necessary, to be made by the requestor.

Assembling Information to Respond to the Request

The Office of the Vice President for Administration and the Human Resources office will assemble **all** materials, regardless of their form or location, that were gathered in the search to fill the employment position.

Determining Which Information to Disclose

The Office of the Vice President for Administration and the Human Resources office shall determine which information to disclose under the FOIA request, subject to approval by the President. The legal counsel for Francis Marion University should also be consulted in this process. Each FOIA request will be examined on a case-by-case basis for determining which information will be disclosed. The applicant's social security number, medical records, and tax information are exempt from disclosure by the FOIA. In determining what information to disclose, Francis Marion University will weigh the privacy interests of the applicant against the public's interest in disclosure. Depending on the specific situation, the following information should be evaluated to determine whether its disclosure would constitute an unreasonable invasion of personal privacy: drug test results, unlisted phone numbers, salaries, criminal convictions,

Family Independence Act (FIA) information, reasons for job terminations, credit check information, SLED check information, reference letters, and driver's license number.