



FLORIDA A & M UNIVERSITY
OFFICE OF THE GENERAL COUNSEL ADVISORY

OGC ADVISORY NO. 07- 01		INITIAL ISSUANCE DATE: 11/1/07	
ATTACHMENT(S): (1) Section 119.071(5)(a), Florida Statutes		REVISION DATE(S):	
TO:	Leadership Team, Deans, Directors and Division Heads		
FROM:	Avery D. McKnight, General Counsel		
SUBJECT:	Collection and Disclosure of Social Security Numbers Pursuant to Section 119.071(5)(a), Florida Statutes		

Attached is a copy of Section 119.071(5)(a), Florida Statutes (F.S.), which governs the use and disclosure of social security numbers. Please review the above-cited statutory provision in its entirety and take all appropriate action. Specifically, examine Section 119.071(5)(a)2.a., F.S., which prohibits the collection of social security numbers, except as authorized by law or as imperative for the performance of the agency's duties and responsibilities as prescribed by law.

To the extent any Departments/Areas within the University are collecting social security numbers, such Departments/Areas **must** provide individuals with a statement of the purpose or purposes for which the social security number is being collected and used as set forth in Section 119.071(5)(a)3., F.S. This Office will be available to review such statements as drafted.

Although the University may have a legitimate reason for the **initial collection** of social security numbers, social security numbers should not be used as the primary or sole employee or student identifier. It should be noted that the iRattler System has a component by which alternate employee and student identifiers are assigned. Given that alternate employee and student identifiers are being assigned by the iRattler System, Department/Areas should discontinue the collection of social security numbers for the sole purpose of identification and utilize the alternate employee and student identifiers. Other universities within the State University System have taken similar measures to designate alternative student and employee identifiers.

Please distribute this advisory to the relevant units in your area. If you have any questions, please telephone the Office of the General Counsel at (850) 599-3591.

Select Year:

The 2007 Florida Statutes

[Title X](#)

[Chapter 119](#)

[View Entire Chapter](#)

PUBLIC OFFICERS, EMPLOYEES, AND RECORDS

PUBLIC RECORDS

¹119.071 General exemptions from inspection or copying of public records.--

(1) AGENCY ADMINISTRATION.--

(a) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution. A person who has taken such an examination has the right to review his or her own completed examination.

(b)1.a. Sealed bids or proposals received by an agency pursuant to invitations to bid or requests for proposals are exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. [120.57\(3\)\(a\)](#) or within 10 days after bid or proposal opening, whichever is earlier.

b. If an agency rejects all bids or proposals submitted in response to an invitation to bid or request for proposals and the agency concurrently provides notice of its intent to reissue the invitation to bid or request for proposals, the rejected bids or proposals remain exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. [120.57\(3\)\(a\)](#) concerning the reissued invitation to bid or request for proposals or until the agency withdraws the reissued invitation to bid or request for proposals. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

2.a. A competitive sealed reply in response to an invitation to negotiate, as defined in s. [287.012](#), is exempt from s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. [120.57\(3\)\(a\)](#) or until 20 days after the final competitive sealed replies are all opened, whichever occurs earlier.

b. If an agency rejects all competitive sealed replies in response to an invitation to negotiate and concurrently provides notice of its intent to reissue the invitation to negotiate and reissues the invitation to negotiate within 90 days after the notice of

of current or former guardians ad litem, as defined in s. 39.820, and the names, home addresses, telephone numbers, and places of employment of the spouses and children of such persons, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the guardian ad litem provides a written statement that the guardian ad litem has made reasonable efforts to protect such information from being accessible through other means available to the public. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

7. The home addresses, telephone numbers, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, senior juvenile detention officers, juvenile detention officer supervisors, juvenile detention officers, house parents I and II, house parent supervisors, group treatment leaders, group treatment leader supervisors, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

8. An agency that is the custodian of the personal information specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., or subparagraph 7. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1., subparagraph 2., subparagraph 3., subparagraph 4., subparagraph 5., subparagraph 6., or subparagraph 7. shall maintain the exempt status of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

* (5) OTHER PERSONAL INFORMATION.--

(a)1.a. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes.

b. The Legislature recognizes that the social security number can be used as a tool to perpetuate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual.

c. The Legislature intends to monitor the use of social security numbers held by agencies in order to maintain a balanced public policy.

* 2.a. An agency may not collect an individual's social security number unless the agency has stated in writing the purpose for its collection and unless it is:

(I) Specifically authorized by law to do so; or

(II) Imperative for the performance of that agency's duties and responsibilities as prescribed by law.

b. Social security numbers collected by an agency may not be used by that agency for any purpose other than the purpose provided in the written statement.

* 3. An agency collecting an individual's social security number shall provide that individual with a copy of the written statement required in subparagraph 2.

4.a. Each agency shall review whether its collection of social security numbers is in compliance with subparagraph 2. If the agency determines that collection of a social security number is not in compliance with subparagraph 2., the agency shall immediately discontinue the collection of social security numbers for that purpose.

b. Each agency shall certify to the President of the Senate and the Speaker of the House of Representatives its compliance with this subparagraph no later than January 31, 2008.

5. Social security numbers held by an agency are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to social security numbers held by an agency before, on, or after the effective date of this exemption.

6. Social security numbers may be disclosed to another agency or governmental entity if disclosure is necessary for the receiving agency or entity to perform its duties and responsibilities.

7.a. For purposes of this subsection, the term:

(I) "Commercial activity" means the provision of a lawful product or service by a commercial entity. Commercial activity includes verification of the accuracy of personal information received by a commercial entity in the normal course of its business; use for insurance purposes; use in identifying and preventing fraud; use in matching, verifying, or retrieving information; and use in research activities. It does not include the display or bulk sale of social security numbers to the public or the distribution of such numbers to any customer that is not identifiable by the commercial entity.

(II) "Commercial entity" means any corporation, partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association that performs a commercial activity in this state.

b. An agency may not deny a commercial entity engaged in the performance of a commercial activity access to social security numbers, provided the social security numbers will be used only in the performance of a commercial activity and provided the commercial entity makes a written request for the social security numbers. The written request must:

(I) Be verified as provided in s. 92.525;

(II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

(III) Contain the commercial entity's name, business mailing and location addresses, and business telephone number; and

(IV) Contain a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the performance of a commercial activity. The aggregate of these requests shall serve as the basis for the agency report required in subparagraph 9.

c. An agency may request any other information reasonably necessary to verify the identity of a commercial entity requesting the social security numbers and the specific purposes for which the numbers will be used.

8.a. Any person who makes a false representation in order to obtain a social security number pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

b. Any public officer who violates this paragraph commits a noncriminal infraction, punishable by a fine not exceeding \$500 per violation.

9.a. Every agency shall file a report with the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year.

b. The report required under sub-subparagraph a. shall list:

(I) The identity of all commercial entities that have requested social security numbers during the preceding calendar year; and

(II) The specific purpose or purposes stated by each commercial entity regarding its need for social security numbers.

c. If no disclosure requests were made, the agency shall so indicate.

10. Any affected person may petition the circuit court for an order directing compliance with this paragraph.

11. This paragraph does not supersede any other applicable public records exemptions

existing prior to May 13, 2002, or created thereafter.

(b) Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to bank account numbers and debit, charge, and credit card numbers held by an agency before, on, or after the effective date of this exemption.

⁵(c) Any information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child, including, but not limited to, the name, home address, telephone number, social security number, or photograph of the child; the names and locations of schools attended by such child; and the names, home addresses, and social security numbers of parents or guardians of such child is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Information made exempt pursuant to this paragraph may be disclosed by court order upon a showing of good cause. This exemption applies to records held before, on, or after the effective date of this exemption.

(d) All records supplied by a telecommunications company, as defined by s. 364.02, to an agency which contain the name, address, and telephone number of subscribers are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(e) Any information provided to an agency for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his or her name for ridesharing, as defined in s. 341.031, is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(f) Medical history records and information related to health or property insurance provided to the Department of Community Affairs, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency by an applicant for or a participant in a federal, state, or local housing assistance program are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Governmental entities or their agents shall have access to such confidential and exempt records and information for the purpose of auditing federal, state, or local housing programs or housing assistance programs. Such confidential and exempt records and information may be used in any administrative or judicial proceeding, provided such records are kept confidential and exempt unless otherwise ordered by a court.

(g)1. Biometric identification information held by an agency before, on, or after the effective date of this exemption is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this paragraph, the term "biometric identification information" means:

- a. Any record of friction ridge detail;
- b. Fingerprints;
- c. Palm prints; and