

**FLORIDA BOARD OF GOVERNORS  
NOTICE OF PROPOSED NEW REGULATION**

**DATE:** January 28, 2022

**REGULATION NUMBER AND TITLE:** 3.005, Examination and Assessment Instruments

**SUMMARY:** During the 2021 legislative session, section 1008.23, Florida Statutes, was amended to protect postsecondary examination and assessment instruments and directly related developmental materials and workpapers from disclosure to the public under Florida's public records laws. Regulation 3.005 establishes parameters that govern access, maintenance and destruction of these instruments and related materials and requires each university to adopt a regulation that, at a minimum, includes provisions for protecting the instruments from unauthorized access or disclosure; for maintaining the security of the instruments; for ensuring third-party contractors' compliance with the university regulation; for the destruction of obsolete instruments; and for governing authorized access or disclosure outside of the regular examination process.

**FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.**

**AUTHORITY TO PROPOSE REGULATION(S):** Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

**THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION:** Vikki Shirley, General Counsel

**COMMENTS REGARDING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW.** The comments must identify the regulation on which you are commenting:

General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or [generalcounsel@flbog.edu](mailto:generalcounsel@flbog.edu).

### **Regulation 3.005 Examination and Assessment Instruments**

- (1) All examination and assessment instruments, including developmental materials and workpapers directly related thereto, that are prepared, prescribed or administered by a university are exempt from disclosure under section 119.07(1), Florida Statutes, and section 24(a), Article I, Florida Constitution, as provided in section 1008.23, Florida Statutes.
- (2) Access, maintenance and destruction of examination and assessment instruments and related developmental materials and workpapers shall be governed by university regulation, which at a minimum shall include provisions for:
  - (a) Protecting the security and confidentiality of examination and assessment instruments from unauthorized access or disclosure.
  - (b) Maintaining the security of such instruments through encrypted electronic means or secure storage, as applicable.
  - (c) Requiring third-party contractors responsible for administering or proctoring examinations or assessments to comply with the university regulation.
  - (d) Destruction of obsolete examination and assessment instruments and related materials pursuant to records retention schedules applicable to state universities.
  - (e) Defining permissible access to, or authorized disclosure of, examination and assessment instruments to faculty, staff and students outside of the regular examination or testing process.

Authority: Section 7(d), art. IX, Fla. Const.; Section 1008.23, Florida Statutes. History:  
New \_\_\_\_\_