

TO: Search Committee Members
FROM: General Counsel Office
SUBJECT: Confidentiality of Search Process

The purpose of this memorandum is to provide a legal context and some practical tips for ensuring the confidentiality and integrity of the search process.

Under Idaho law, information regarding employees and applicants is confidential. With respect to applicants for faculty or administrative exempt positions, the University is permitted to disclose the names of finalists only, except under certain limited circumstances. Idaho Code 74-106 (formerly 9-340C(1)):

Records Exempt from Disclosure – Personnel Records, Personal Information, Health Records, Professional Discipline. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment..

Individual members of search committees should treat all candidate information with strict confidentiality throughout the search process. The fact that an individual has applied for the position should be treated as confidential. Irregularities in the search process, including improper disclosure of candidates' identities or other information, can be the basis for a discrimination lawsuit by an unsuccessful applicant, in addition to violating the Idaho Public Records Law. Even after the search is completed, discussions regarding what occurred during a search process can violate confidentiality and create legal issues.

Requests for information from someone outside the search committee, and any announcement of finalists, should be handled by a designated person, typically the chair of the search committee, who will work with the General Counsel's office to ensure that any disclosure is within the parameters of the law and does not create liability for the University. When requests from the media are involved, the University's Director of Media Relations also should be consulted.

Please contact the General Counsel's Office at counsel@uidaho.edu with any questions.