

# Unclassified Search Records Information Sheet

## What is the university required to release to someone requesting information about applicants, candidates and nominees\* to an unclassified position?

Wisconsin statutes (Section 19.36 (7)) require the release, upon request, of:

- the names of all “final candidates” for appointment to any state unclassified position – even if they requested confidentiality in writing; and
- all other applicants/candidates – except those who requested confidentiality in writing.

\*The statutes do not require the release of the names of **nominees** for the position.

## How are “final candidate,” “applicant,” “candidate,” and “nominee” defined?

### “Final candidate”

Sections 19.36(7)(a) and (b) Wis. Stats. define “final candidate” as:

“ ... each applicant for a position who is seriously considered for appointment or whose name is certified for appointment and whose name is submitted for final consideration to an authority for appointment to any state (unclassified) position, ... 'Final candidate' includes, whenever there are at least 5 candidates for an office or position, each of the 5 candidates who are considered most qualified for the office or position by an authority, and whenever there are less than 5 candidates for an office or position, each such candidate. Whenever an appointment is to be made from a group of more than 5 candidates, 'final candidate' also includes each candidate in the group.”

### “Applicant”

The statutes do not define “applicant.” However, a common sense definition would include anyone who has submitted sufficient materials to be considered for the position.

### “Candidate”

The statutes do not define “candidate.” However, a statutory annotation states that “candidate” and “applicant” are synonymous.

### “Nominee”

The statutes do not mention or define “nominee.” For a number of university vacancies, people will be nominated for a position by another person. In these cases, the person nominated does not become an applicant or candidate until he or she informs the search committee or contact person that he or she would like to be considered for the position and subsequently submits sufficient materials to be considered for the position.

## Should we inform potential applicants of this law?

Yes. To be fair to potential applicants, you must include a statement about this law in all ads or announcements. All PVLs automatically include this statement:

*“NOTE: Unless confidentiality is requested in writing, information regarding the names of applicants must be released upon request. Finalists cannot be guaranteed confidentiality.”*  
Follow-up letters to individuals who have been nominated must also include reference to this law.

**What should I do if I receive a request for information about applicants for a position?**

After receiving the request, the department should respond within a reasonable time period (the state law says “as soon as practicable and without delay”--certainly no more than ten calendar days) after the published deadline date or the date of the request, whichever is later. You should compile and release a combined list (in alphabetical order) of the names of all applicants/candidates who did not request confidentiality in writing and, if available, the names of the final candidates.

**What do I do if someone requests the names of applicants/candidates prior to the deadline for applications on the PVL?**

Inform the person that the deadline date has not yet passed and that you will provide them with the names of the applicants/candidates within a reasonable time period after the deadline.

**What do I do if someone requests the names of applicants/candidates after the deadline date on the PVL, but I still want to accept applications because we're not ready to start considering the applicants?**

You must provide to the person, within a reasonable time period, the list of applicants/candidates who have not requested confidentiality. If you wish to continue to accept applications after the deadline date, you must inform the requestor that you will do so and provide an updated list, upon request.

**What do I do if someone requests the cover letters and resumes (or CVs) of the applicants?**

If specifically asked for the resumes and/or cover letters, you must provide them as well as the list of names--but only for those applicants who *did not* request confidentiality and for all finalists. You should also black out the applicants' home addresses and telephone numbers on the cover letters and resumes.

**For how long do I have to retain search records?**

You must keep search records for six years after the selection has been made.

**Whom do I call if I have questions about a request for applicants or other open records requests?**

Contact the Office of Human Resources if you have any questions about a request for applicant information.

Contact Administrative Legal Services for any other open records question.

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If a request is received from any person or organization for a list of candidates, applicants, and/or nominees:

**DO**

- Ask for which position the list is being requested (e.g., PVL#, name of contact person, job title so you can identify the vacancy).
- Provide the requestor **ONLY** the names of the applicants/candidates who have not requested confidentiality, and the names of the final candidates.
- Make the list alphabetical so there is no implication that the list is grouped otherwise--other than to indicate the finalists.
- Provide the list within a reasonable period of time after receipt of the request or the deadline, whichever is later.

**DON'T**

- Don't require the requestor to identify himself/herself.
- Don't ask why the list is being requested.
- Don't require that the request be in writing.
- Don't include nominees on the list.
- Don't provide the list prior to the application deadline.
- Don't include individuals on the list who only wanted information about the position, but did not apply.
- Don't include individuals on the list whom someone suggested you contact to see if they were interested or if they had the required credentials (these individuals are to be considered nominees).