

North Dakota State University

Policy Manual

SECTION 343

CONFIDENTIAL PROPRIETARY INFORMATION

SOURCE: SBHE Policy Manual, Section 611.6

Pursuant to N.D.C.C. Section 44-04-18.4, trade secret, proprietary, commercial and financial information is confidential and not subject to the state's open records law if it is of a privileged nature and has not been previously publicly disclosed. Institutions shall adopt necessary policies or procedures to protect confidential information, including such information received or generated in connection with grants or contracts. The existence of a confidential grant, contract or proposal and nonconfidential grant or contract terms, the name of the funding entity, or the general nature of the research shall not be proprietary or confidential.

No policy shall limit or affect the applicability or implementation of any rule or regulation of the State Health Department.

Confidential information shall be identified by the sponsor as such at the time of disclosure to the institution. Such information shall not mean: (1) information already in the public domain at the time of disclosure; (2) information rightfully received by the institution from a third party without obligation of confidence; (3) information publicly disclosed either prior to or subsequent to the institution's receipt of such information by the sponsor or a third party; or (4) information which the institution can demonstrate to have been known prior to receipt from the sponsor.

Faculty, staff and students shall not sign confidentiality agreements with sponsors of research, including agreements related to Summer programs, that may relate to their employment or to their degree program at the University, without having such agreements reviewed by the Office of Sponsored Programs Administration pursuant to normal University policies. These agreements can sometimes be overly broad and can conflict with other University policies restricting the extent to which employees or students can promise confidentiality of certain information. Students may not be assigned academic or research work which involves confidential information unless the work may be completed in a timely fashion to meet the requirements of the student's academic program without unauthorized disclosure of confidential information.

Institution policies shall allow the free dissemination of data from knowledge creation efforts while maintaining confidential information and preserving the intellectual property rights resulting from such programs. The right to publish the results derived from research and development programs shall be vested at all times in the institution, its faculty, staff, or students. However, the sponsor may request: (1) a limited time period in which the sponsor may examine potential publications to provide advisory comments and to identify its proprietary information; and (2) a time period in which public "enabling" disclosures of research results or discoveries should be withheld to allow the preservation of intellectual property rights. Other restrictions may apply within the context of local institutional policy and state law.

HISTORY:
New February 10, 1989
Amended March 1998
Amended October 2000

Amended

December 2002