Policy *718* Version 1 *100215*

**Policy Change Cover Sheet**

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| **This form must be attached to each policy presented. All areas in red, including the header, must be completed; if not, it will be sent back to you for completion.** |
|  | *I****f the changes you are requesting include housekeeping, please submit those changes to*** ***ndsu.policy.manual@ndsu.edu*** ***first so that a clean policy can be presented to the committees.*** |
| **SECTION**:  | 718 Public/Open/Restricted Records |
| 1. **Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).**
 |
| * Is this a federal or state mandate? [ ]  Yes [x]  No
* Describe change: Housekeeping change updating the Office of the General Counsel with the Assistant Attorney General assigned to the University
 |
| 1. **This policy change was originated by (individual, office or committee/organization):**
 |
| * Office/Department/Name and the date submitted – Student Life /Mary Asheim / 10-2-15
* Email address of the person who should be contacted with revisions – mary.asheim@ndsu.edu
 |
| ***This portion will be completed by Mary Asheim.***Note: Items routed as information by SCC will have date that policy was routed listed below. |
| 1. **This policy has been reviewed/passed by the following (include dates of official action):**
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| **Senate Coordinating Committee:** |  |
| **Faculty Senate:** |  |
| **Staff Senate:** |  |
| **Student Government:** |  |
| **President’s Cabinet:** |  |

The formatting of this policy will be updated on the website once the **content** has final approval. Please do not make formatting changes on this copy. If you have suggestions on formatting, please route them to ndsu.policy.manual@ndsu.edu. All suggestions will be considered, however due to policy format guidelines, they may not be possible. Thank you for your understanding!

**North Dakota State University
Policy Manual
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**SECTION 718
PUBLIC/OPEN/RESTRICTED RECORDS**

### SOURCE: NDSU PresidentSBHE Policy 1912

### Except as otherwise specifically provided by law or this policy, all records of the State Board of Higher Education, the North Dakota University System and its institutions are, pursuant to N.D.C.C. Section 44-04-18, public records, open and accessible for inspection during regular office hours.

### Student education records are confidential and access to those records is restricted according to the Family Education Rights and Privacy Act of 1974, as amended (FERPA). Pursuant to FERPA, each institution shall:

### Adopt a policy as required by 34 CFR Section 99.7;

### Annually notify students currently in attendance of their rights under FERPA;

### Except as provided under FERPA and 34 CFR Section 99.31, relating to conditions under which personally identifiable information may be disclosed without consent, obtain a signed and dated written consent of a student before it discloses personally identifiable information from the student's education records;

### Maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student as required by 34 CFR Section 99.32;

### Provide the notice required by 34 CFR Section 99.37 concerning disclosure of directory information;

### Adopt procedures implementing FERPA provisions governing release and transfer of student disciplinary records. Consistent with FERPA, student disciplinary records are confidential and may be released only as permitted under FERPA and implementing institution procedures; and

### Comply with all other requirements of FERPA and applicable regulations.

### *NDSU Guidelines:*

### *NDSU provides an annual notice informing students of their FERPA rights which constitutes its FERPA policy. Other provisions related to FERPA rights can be found in Policy 601-Code of Student Behavior.*

### Records of former students, including deceased former students, are confidential except that records of deceased former students may be released or disclosed at the request of a parent, personal representative, or other qualified representative of the student's estate, or pursuant to a court order or subpoena.

### Access to and disclosure of campus police records is governed by N.D.C.C. Section 44-04-18.7. Accordingly, active criminal intelligence information and active criminal investigative information are exempt from the open records law. Each campus law enforcement agency shall maintain a list of all files containing active criminal intelligence and investigative information which have been in existence for more than one year, which shall be subject to disclosure under N.D.C.C. Section 44-04-18.

### Campus police records which are open and must be disclosed under Section 44-04-18.7 include: arrestee description; facts concerning the arrest; conviction information; disposition of all warrants; a chronological list of incidents, including initial offense report information; a crime summary, including a departmental summary of crimes reported and public calls for service; radio log; and general registers.

### Law enforcement records and files concerning a child, as that term is defined at N.D.C.C. ch.27-20, shall be kept separate from the records and files of adults and shall not be open to public inspection and may not be disclosed except according to the provisions of N.D.C.C. ch. 27-20.

### Records of undercover law enforcement officers are confidential and exempt from the open records law as provided by N.D.C.C. Section 44-04-18.3.

### Personnel records, other than personnel records that relate to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student, are public records open to inspection by the public. However, pursuant to N.D.C.C. Section 44-04-18.1, employee medical and employee assistance program records are confidential and may not be placed in an employee's personnel file and may not be released without the written consent of the employee. Further, personal information as defined in section 44-04-18.1, including a person's home address, home telephone number, photograph, medical information, motor vehicle operator's identification number, social security number, payroll deduction information, the name, address, phone number, date of birth of any dependent or emergency contact, any credit, debit or electronic fund transfer card number, and any account number at a bank or other financial institution, are exempt from the open records law and may be released only as required by law, pursuant to an institution policy or with the employee's written consent. Placement of documents in an employee's personnel file is governed by N.D.C.C. Section 54-06-21.

### *NDSU Guidelines:*

### *N.D.C.C. Section 54-06-21 states that the "official" personnel file is "the file maintained under the supervision of the agency head" or designated representative. At NDSU, the "official file" location is designated as follows:*

### *Non-Broadbanded employees*

### *Faculty (ranked), lecturers and graduate assistants Deans Office*

### *Extension/Ag. Experiment, Staff VP of Agriculture Office*

### *Other non-broadbanded staff  Office of Human Resources/Payroll*

### *All Broadbanded employees Office of Human Resources/Payroll*

### *Official files must include an access record. The access record must contain the date and name of any person viewing the file except when the custodian of the file is inserting salary, insurance medical, tax, Workers Compensation, pretax benefits, deferred compensation information or employment forms pursuant to N.D.C.C. Section 54-06-21.*

### Additional records exempt from the open records law include (without limitation):

### Information pertaining to an employee's retirement account balance, disability applications and benefits, and surviving spouse applications and benefits under N.D.C.C. ch. 54-52 or a plan adopted by the board (N.D.C.C. Section 54-52-26);

### Certain economic development records (N.D.C.C. Section 44-04-18.2);

### Trade secret, proprietary, commercial and financial information (N.D.C.C. Section 44-04-18.4 and SBHE Policy 611.6);

### Computer software programs or components for which a copyright, patent or license is acquired (N.D.C.C. Section 44-04-18.5);

### Attorney work product (N.D.C.C. Section 44-04-19.1);

### Social security number, which is confidential under N.D.C.C. Section 44-04.28

### Copies of records not exempt from section 44-04-18 shall be provided upon request. Copies shall be made of records and documents in the form filed or kept in the normal course of business and employees are not required to retrieve and collate or summarize data or prepare other special reports or documents not required by law or otherwise prepared in the normal course of business. A fee for allowing access to documents may not be assessed; however, each institution shall establish and collect a fee to cover reasonable copying costs, including reasonable cost of computer generated documents. The fee for standard paper copies may not exceed twenty-five cents per copy as provided under section 44-04-18. A fee not to exceed twenty-five dollars per hour, excluding the first hour, may be charged per request for locating records if locating the records requires more than one hour or for excising confidential or closed material if excising the material requires more than one hour. Access to electronically stored records is free if the records are recoverable without the used of computer backup; if a request is made for access to a record on a back-up or for a copy of an electronically stored record an additional reasonable fee may be charged to cover costs attributable to the use of information technology resources.

### *NDSU Guidelines:*

### *NDSU departments may charge a fee up to twenty-five cents per page for paper copies provided to persons requesting copies under the Open Records Act. A reasonable fee can be charged for electronic copies as well as costs for the use of technology resources. A fee of up to $25/hour, excluding the first hour, can be charged for locating records or redacting information that is not open.*

### *Monies collected from the persons making such requests must be deposited at the NDSU Customer Account Services Office at least weekly, daily if amounts collected are $200 or greater (see policy 508.)*

### *Responses to open records requests, other than routine requests in the normal course of business in an office or department, shall be coordinated through:*

### *From the media: The Office of the Vice President for University Relations.*

### *From other sources: The Assistant Attorney General assigned to the University.*

### State law mandates that responses to open records cannot be unreasonably delayed, so that such requests must be given a high priority.

### *NDSU Policy on Restricted Personally Identifiable Information*

### *North Dakota State University recognized that it collects and maintains confidential/sensitive information relating to its students, employees, and individuals associated with the university and is dedicated to ensuring the privacy and proper handling of this personally identifiable information (PII).*

### *Social Security Numbers (SSN) and other restricted personally identifiable information are confidential and legally protected data. The university is committed to maintaining the privacy and confidentiality of an individual's personally identifiable information including, but not limited to, Social Security Numbers. Therefore, the use of the SSN as an identification number shall be limited.*

### *NDSU recognizes the use of the North Dakota University System ID number (EmplID) as the primary identification number for students, employees, and any person with a recurring business, educational, and/or research relationship with NDSU.*

### *The Federal Privacy Act of 1974 and related amendments establish guidelines regarding state agency requests for the social security number. It is the duty of the university to inform individuals whether a given use of social security numbers is mandatory and the legal authority therefore, the principal purpose(s) for the request, and the effects of not providing it. Data confidentiality is also mandated by NDCC sec. 44-04-28, 44-04-18.9 and 44-04-27; NDUS Procedure 1901.2 and its NDUS Data Information Technology Security Standard; other state and federal laws and regulations; system and NDSU policies, and various industry regulations.*

### *This policy and derived procedures provide guidelines and procedures on the proper use and disclosure of Social Security Numbers and other restricted PII such as credit/debit card numbers. Goals of the policy and procedures are to:*

### *Eliminate use of the SSN as a publicly visible identification number for university-related business transactions.*

### *Increase awareness of the confidential nature of restricted PII such as Social Security Numbers and credit/debit card numbers.*

### *Reduce reliance upon the SSN for identification purposes.*

### *Ensure appropriate and consistent handling of SSNs and other restricted PII throughout the university.*

### *Provide for assessments and audits of processes, applications, or systems used by or for NDSU entities. The assessments will be done by the NDSU IT Security Officer and the NDSU Audit and Advisory Services office. Audits will be done by Audit and Advisory Services.*

### *Procedures and materials required to support and enforce this policy will be developed and maintained by the NDSU IT Security Officer and the NDSU Audit and Advisory Services Office.*

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HISTORY:

New May 1998

Amended April 2003

Amended October 2005

Amended October 2007

Amended November 2008