NDSU and North Dakota Open Records Laws

The public has the right to know how state and local government functions are performed and how public funds are spent. As a public entity, North Dakota State University has the obligation to provide all records responsive to open records requests. The best protection for public employees is to understand these laws and the exceptions that apply to them.

For assistance with open records requests, contact University Relations for media requests or NDSU's Chief of Staff for non-media requests.

What is an “open record”?  

Open records provisions are found in both the North Dakota Constitution and the North Dakota Century Code:
- N.D. Constitution, Article XI §6.
- N.D.C.C. §44-04-18

"Record" means recorded information of any kind which is in the possession or custody of a public entity for use in connection with public business or contains information relating to public business. This includes: emails, text messages, meeting minutes, memos, reports, outlines, notes and other information kept for or relating to official NDSU business or public funds.

"Record" does not include unrecorded thought processes or mental impressions.

Anyone has the right to view or receive a copy of public records regardless of the reason.

There is no formal process for requesting records and the request may be in person, by mail, e-mail, fax, or by phone.

There are two classes of exceptions to open records:
- Confidential – disclosure is legally prohibited.
- Exempt – disclosure is discretionary

Examples of Exempt/Confidential Records:
- Student Education Records
- University Research Records
- Law Enforcement Records
- Medical Records
- Trade Secrets, Proprietary & Intellectual Property
- Public Employee – Personal Information (as defined by statute)
- Attorney Work Product
- Lists of Minors

What to do if you receive an open records request?

- Do not ignore the request.
- Identify the record(s) requested.
- Determine whether the record is open or whether it falls into an exception, keeping in mind that some portions of the record may be open while others may require redacting.
- Respond to the request within a reasonable time, by either providing the document or by explaining the legal authority for denying all or part of the request.

When responding to an open record request, DO NOT:
- Inquire why the records are being requested;
- Ask the requester to identify themselves;
- Require that the request be made in person or in writing;
- Create new records to fulfill the request.

An entity does not have to convert its records to another format, create or compile records that do not exist, or obtain records originating from another public entity that it does not have in its possession.

A request for public records may not be denied because the record contains both open and exempt/confidential information.

A public entity may only deny access to a record for which there is a specific statute closing all or part of the information. The remaining information is open to the public and must be provided. If a request for records is denied, or if a portion of the record is redacted, the entity must cite the specific federal or state law authorizing the redaction.

Seek assistance if you are unsure as to whether the record, or part of the record must be disclosed, or if the response will require more than an hour of your time.

Violation of North Dakota open record laws may result in Attorney General advisory opinions to correct the violation and/or criminal prosecution.