

## **CHAPTER XII**

### **STATE AND FEDERAL REGULATORY MATTERS**

**NOTES:**

Adopted 01/12/90

**ENFORCEMENT OF NORTH CAROLINA GENERAL STATUTE § 143B-421.1,  
SELECTIVE SERVICE REGISTRATION**

The 1989 Session of the North Carolina General Assembly enacted legislation requiring applicants for state jobs and certain benefits to prove that they are in compliance with the registration requirements of 50 United States Code Appx. Section 453 (Military Selective Service Act). The statute also obligates all state employers to adopt rules and regulations for enforcing this requirement. Pursuant to that mandate, the following regulations are hereby adopted.

1. Each application form to be used for university employment shall contain a set of questions which is consistent with the model provided at Appendix A.
2. If an application does not answer affirmatively either of the questions specified in Appendix A, he or she shall be notified that a proposed finding of ineligibility for the position will be finalized, unless, within 30 days, he or she provides information which establishes that he or she is in fact in compliance with the registration requirements of the Military Selective Service Act.
3. The applicant may present documentary or oral evidence to prove that he or she is in fact registered or to show that compliance is not required. University officials in charge of employment may allow the applicant an opportunity for a hearing to challenge the proposed finding of ineligibility.
4. To prove eligibility an applicant may show one of the following bases:
  - a. that he is registered with the Selective Service;
  - b. that he is not required to be registered with the Selective Service; or
  - c. that the requirement to register has terminated or become inapplicable and that the failure to register was not a knowing and willful failure to register.
5. In determining whether the applicant has established eligibility under these rules, the level of proof required shall be a preponderance of the evidence.

**APPENDIX A**

**STATEMENT OF SELECTIVE SERVICE REGISTRATION COMPLIANCE**

(Check A or B)

**A.**     \_\_\_ I certify that I am not required to be registered with the Selective Service because (check one):

\_\_\_ I am a female.

\_\_\_ I am in the armed services on active duty. (Note: Members of the Reserves and National Guard are not considered on active duty.)

\_\_\_ I am under the age of eighteen years.

\_\_\_ I was born before 1960.

\_\_\_ I am a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

**B.**     \_\_\_ I certify that I am registered with the Selective Service.

Name (Print) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**The Open Meetings Act**

*[This space is being reserved for future modifications.]*

**NOTES:**

Adopted 05/05/97

## **Minimum Environmental Criteria for the North Carolina Environmental Policy Act**

### **1. Purpose**

The purpose of this memorandum is to establish for the constituent institutions of the University of North Carolina minimum criteria for minor operations or small, routine facilities projects at or below which no filing of environmental documents will be required. The goal is to ensure adequate protection to the environment while facilitating the many routine operations and small maintenance, repair, or construction projects at the constituent institutions by allowing separation of activities with a high potential for environmental effects (major) from those with only a minimum potential (non-major).

### **2. Background**

Section .300, Chapter 25 of the Administrative Procedures for the North Carolina Environmental Policy Act (NCEPA) allows State agencies to prepare minimum criteria for exemption of minor, routine projects from the requirements of NCEPA. Specifically, the procedure states that "a state agency may establish specific criteria designating minimum levels of environmental impact." No filing of environmental documentation under the NCEPA review procedures is required for actions which do not exceed such levels. The provisions which allow environmental documentation not to be filed do not in any way provide exception to the consideration process leading to a decision regarding an activity falling within or outside the minimum criteria thresholds and the potential impact on the environment of such activity; as such, the provisions of this document do not remove the requirement for a project or activity to meet all appropriate and relevant federal, State, and local environmental regulatory requirements.

### **3. Delegation of Authority**

Chancellors of the constituent institutions are responsible for the implementation of these policies with respect to their individual campuses. For projects which apply to facilities directly under the control of General Administration, the vice president for finance shall be responsible to the president for the implementation of these policies.

Each chancellor, the vice president for finance, or their designees shall interpret the provisions of the NCEPA to require that policies and programs be considered in the light of the NCEPA's comprehensive environmental objectives, except where existing law applicable to the operations expressly prohibits compliance or makes compliance impossible.

### **4. General Criteria for Major or Non-Routine Activities**

The following criteria is intended to provide guidance concerning the definition and handling of actions which have potential for impact on the environment and, therefore, are to be considered for filing of an environmental assessment of appropriate level.

- a. Major activities will include those activities which exist or have the potential to exist at a level greater than those otherwise excluded by minimum (non-major) criteria.
- b. Major activities will include demolition of or additions, rehabilitation and/or renovations to a structure listed in the National Register of Historic Places or more than 50 years of age except where agreement exists with the Department of Cultural Resources that the structure lacks architectural or historical significance.
- c. Major activities will include ground disturbances involving National Register of Historic Places listed archaeological sites or areas around buildings 50 years old or

older except where agreement exists with the Department of Cultural Resources.

- d. Major activities taken after preparation of and in conformance with a master plan, management plan, or capital project for which an environmental document was completed, may require an environmental impact statement, an environmental assessment, a finding of no significant impact, or a record of decision. Determination of which type of document is most appropriate will be made after considering:
  - (1) the need for updating information in the earlier, broader document as it relates to current conditions and the proposed activity, and
  - (2) the specificity and sufficiency of the earlier, broader document in addressing the effects of the proposed activity.
- e. An item which does not fall within the broad definition of a major activity in all probability will fit the definition of a non-major activity as described below. Persons who have responsibility for the determination concerning an activity falling within the major or non-major category also have responsibility as to the impact on the environment of such activity. The definitions are not fixed criteria but rather are guidelines to be applied by the person with whom the ultimate decision rests concerning appropriate environmental study and documentation.

## 5. Non-Major Activity

The following minimum criteria are established as an indicator of the types and classes of thresholds of activity at and below which environmental documentation under the NCEPA is not required. The vice president for finance or individual chancellors may require environmental documentation for activities that would otherwise qualify under these minimum criteria thresholds.

- a. Standard maintenance or repair activities or facility operations needed to maintain the originally defined function of a project or facility including but not limited to the following:
  - (1) Routine repairs and housekeeping projects which maintain a facility's original condition and physical features, including but not limited to re-roofing and minor alterations where in-kind materials and techniques are used. This also encompasses structures 50 years of age and older and for which no separate law, rule, or regulation dictates a formal review and approval process.
  - (2) Any single action which involves relocation of students, faculty, or staff from or into a site using existing university buildings or leased buildings for which the building occupancy classification is not changed.
  - (3) Routine disposal operations of hazardous chemicals, asbestos, or other environmentally sensitive operations for which a written procedure has been established, reviewed by appropriate authority, and determined to be in consonance with environmental law.
  - (4) The use of chemicals for boiler feedwater treatment, cooling tower water treatment, pesticides, herbicides, cleaning solvents, and other chemical products which may be considered environmentally sensitive, provided the materials are stored and utilized in keeping with the applicable Material Safety Data Sheet (MSDS).
  - (5) The handling of asbestos incident to a repair, maintenance, or minor construction project provided that the amount of asbestos material is removed, stored, disposed, and handled in accordance with published Department of Environmental Health and Natural Resources procedures for processing

asbestos.

- (6) Routine grounds maintenance and landscaping and grounds construction such as sidewalks, trails, walls, foot bridges, gates, and related facilities including outdoor exhibits.
  - (7) Maintenance activities to roads, bridges, parking lots, and their related facilities. Note, this applies to routine maintenance operations and not to extension or expansion of the facility.
  - (8) Maintenance and repair of utilities on their existing rights-of-way.
  - (9) Surface drainage systems, including modifications which reduce the discharge of freshwater or otherwise mitigate existing negative environmental effects.
  - (10) Boat ramps, docks, piers, bulkheads, and associated facilities - when constructed in accordance with 15ANCAC 12C.0300.
  - (11) Activities necessary to fulfill the existing requirements of in-effect permits for the protection of the environment and human health.
  - (12) Other maintenance and repair activities on projects which are consistent with previously approved environmental documents.
- b.** Sampling survey, monitoring and related research activities including but not limited to the following:
- (1) Aerial photography projects involving the photographing or mapping of the lands of the state.
  - (2) Biology sampling and monitoring of:
    - (a) fisheries resources through the use of traditional commercial fishing gear, electricity, and rotenone;
    - (b) wildlife resources through the use of traditional techniques, including but not limited to traps, drugs, and firearms; and
    - (c) woodland using standard approved forestry monitoring and techniques.
  - (3) Soil survey projects involving the sampling or mapping of the soils of the state.
  - (4) Establishing stream gauging stations for the purpose of measuring water flow at a particular site.
  - (5) Placement of monitoring wells for the purpose of measuring groundwater levels, quantity, or quality.
  - (6) Gathering surface or subsurface information on the geology, minerals, or energy resources of the state.
  - (7) Placement and use of geodetic survey control points.
  - (8) Other routine survey and resource monitoring activities or other temporary activities required for research into the environment which have minimum long-term effects.

- c. Minor construction, demolition, or real estate acquisitions activities (except that sensitive areas may require exceptions to these thresholds) including but not limited to the following:
- (1) Any new construction activity meeting the following criteria as appropriate:
    - (i) a building or structure less than 10,000 square feet in footprint and the use of the structure does not involve the handling or storage of hazardous materials; and/or
    - (ii) grading or disturbing less than five (5) acres of previously undisturbed ground (exclusion of this category does not in itself preclude development of a sedimentation plan as part of the design).
  - (2) Routine paving or repair of existing roads and parking lots (provided that no ground disturbance will be involved necessitating development of a sedimentation plan); and/or  
Construction of a two-lane road of less than 500 feet in length – provided that other laws concerning siltation/sedimentation plans are observed.
  - (3) Demolition of/or additions, rehabilitation and/or renovations to a structure not listed in the National Register of Historic Places or less than 50 years of age.
  - (4) Acquisition of real estate for which the use of the property does not vary from its intended purpose or function at the time of acquisition or is consistent with local land-use plans.
  - (5) Potable water or other utility systems such as the following:
    - (a) construction of new wells for water supply purposes; and/or
    - (b) improvements to water treatment plants that involve less than 1,000,000 gallons per day added capacity, or improvements not intended to add capacity to the facility that have design withdrawal less than one-fifth of the 7Q10 flow of the contributing stream; and/or
    - (c) installation of water lines or other utility lines in proposed or existing rights-of-way for streets or utilities, or new water lines less than five miles in length; and/or
    - (d) construction of water tanks, booster pumping, or re-chlorination pump stations; and/or
    - (e) sewer line installations not exceeding minimum criteria of the permitting agency and not located in sensitive areas.
  - (6) Groundwater withdrawals not exceeding the minimum criteria of the permitting agency and not located in sensitive areas.
  - (7) Solid waste disposal activities such as the following:
    - (i) construction of solid waste management facilities other than landfills exempt pursuant to N.C.G.S. § 130A-294(a)(4) which store, treat, process, incinerate, or dispose of less than 350 tons per day (averaged over one year) of solid waste; and/or

- (ii) disposal of solid waste by land application on 100 total acres or less and where less than 10 percent (10%) of the total land application area is converted from a non-plantation forested area; and/or
  - (iii) land-disturbing activities which are not located within High Quality Waters (HQW) Zones or Trout Water Buffer Zones and land-disturbing activities that will disturb less than five (5) acres within a HQW Zone or a Trout Water Buffer Zone.
- (8) Development activities within Areas of Environmental Concern (AEC) of the 20-county coastal area which do not require a Coastal Area Management Act (CAMA) major or minor permit pursuant to T15A NCAC 7K. Also minor construction activities may be undertaken in AEC which do not require a Coastal Area Management Act permit except activities which might require a NCEPA Environmental Document under provisions of another state approval or authorization.
- (9) Development activities within AEC of the 20-county coastal area which require a CAMA major or minor permit and which meet all applicable criteria set forth in T15A NCAC 7H-State Guidelines for Areas of Environmental Concern, except the following:
- (a) new marinas;
  - (b) new navigation channels;
  - (c) excavation of materials from aquatic environments for use for beach nourishment or other purposes not directly related to approved navigation projects; and
  - (d) any activity which might require a NCEPA environmental document under provisions of another state approval or state or local governmental agency requirement.
- (10) Air emissions of pollutants from a minor source or modification as defined in 15A NCAC 2D.0503 that are less than 100 tons per year or 250 tons per year as defined therein.
- (11) Reclamation of underground storage tanks. Note: The reclamation is considered to be a minor activity. Consideration of product which may have leaked from the tank and restoration of groundwater quality is not authorized for non-consideration by classification as a minor activity.
- (12) Dams less than 25 feet in height and having less than 50 acre-feet of storage capacity.
- (13) Construction or remodeling of swimming pools.
- d.** Management activities including but not limited to the following:
- (1) Replenishment of shellfish beds through the placement of seed oysters and/or shellfish clutch on suitable marine habitats.
  - (2) Creation and enhancement of marine fisheries habitat through the establishment of artificial reefs in accordance with the Division of Marine Fisheries' Artificial Reef Master Plan.

- (3) Placement of fish attractors and shelter public waters managed by the N.C. Wildlife Resources Commission.
- (4) Translocation and stocking of native or naturalized fish and wildlife in accordance with appropriate agency species management plans, watershed management plans, or other approved resource management plans.
- (5) Reintroduction of native endangered or threatened species in accordance with State and/or Federal guidelines or recovery plans.
- (6) Production of native and agricultural plant species to create or enhance fish or wildlife habitat and forest resources, including fertilization, planting, mowing, and burning in accordance with fisheries, wildlife, and/or forestry management plans.
- (7) Forest products harvested in accordance with the National Forest Service or the N.C. Division of Forest Resources forest products management plans.
- (8) Reforestation of woodlands in accordance with the National Forest Service or the N.C. Division of Forest Resources woodlands management plans.
- (9) Use of forestry Best Management Practices to meet the performance standards in Forest Practice Guidelines Related to Water Quality codified as 15A NCAC 11.
- (10) Control of forest or agricultural insects and disease outbreaks by lawful application of labeled pesticides and herbicides by licensed applicators on areas of no more than 100 acres.
- (11) Control of species composition on managed forest lands as prescribed by approved forest management plans by the lawful application of herbicides by licensed applicators.
- (12) Control of aquatic weeds in stream channels, canals, and other water bodies by the lawful application of labeled herbicides by licensed applicators on areas of no more than two acres or 25 percent of surface area, whichever is less.
- (13) Controlled or prescribed burning for wildlife, timber enhancement, and hazard reduction in accordance with applicable management plans.
- (14) Plowing fire lines with tractor plow units or other mechanized equipment for the purpose of suppressing wildland (brush, grass, or woodland) fires and prescribed burning.
- (15) Scooping or dipping water from streams, lakes, or sounds with aircraft or helicopters for the purpose of suppressing wildland (brush, grass, or woodland) fires.
- (16) Drainage projects where the mean seasonal water table elevation will be lowered less than one foot over an area of one square mile or less and riparian and wetland areas will not be permanently affected.
- (17) Manipulation of water levels in reservoirs or impoundments in accordance with approved management plans for the purpose of providing for water supply storage, flood control, recreation, hydroelectric power, fish and wildlife, and aquatic weed control.

- (18) Specific modifications in previously permitted discharges resulting in an increased flow of less than 500,000 gallons per day.
- (19) Installation of on-farm Best Management Practices for the N.C. Cost Share Program for Nonpoint Source Pollution Control codified as 15A NCAC 6E.
- (20) Continuation of previously permitted activities where no increase in quantity or decrease in quality is proposed.
- (21) Acquisition or acceptance of real property to be retained in a totally natural condition for its environmental benefits, or to be managed in accordance with plans for which environmental documents have been approved.
- (22) Care of all trees, plants, and groundcovers on public lands.
- (23) Activities authorized for control of mosquitoes such as the following:
  - (a) mosquito control water management work in freshwater streams performed in accordance with “Best Management Practices for selective clearing and snagging” in Appendix B in Incremental Effects of Large Woody Debris Removal on Physical Aquatic Habitat, U.S. Army Corps of Engineers Technical Report EL-92-35 Smith et al. 1992, or other guidelines reviewed through intergovernmental review processes as set out in 1NCAC.25.0211;
  - (b) mosquito control water management work in salt marsh environments performed under Open Marsh Water Management guidelines reviewed through the intergovernmental review process;
  - (c) lawful application of chemicals approved for mosquito control by the United States Environmental Protection Agency and the State when performed under the supervision of licensed operators; and
  - (d) lawful use of established species to control mosquitoes.

## 6. Exceptions to Minimum (Non-Major) Criteria

Any activity falling within the parameters of the minimum criteria set out in this memorandum will not routinely be required to have environmental documentation under the NCEPA; however, the president, chancellor, or their designees may determine that environmental documents under the NCEPA are required in any case where one of the following findings applies to a proposed activity.

- a. The proposed activity could cause significant changes in industrial, commercial, residential, silviculture, or agricultural land-use concentrations or distributions which would be expected to create adverse water quality, air quality, or groundwater impacts, or affect long-term recreational benefits, shellfish, wildlife, or their natural habitats.
- b. The proposed activity has indirect effect or is part of cumulative effects not generally covered in the approval process for state action and that may result in a potential risk to human health or the environment.
- c. The proposed activity is of such an unusual nature or has such widespread implications that an uncommon concern for its environmental effects has been expressed to the University or the constituent institution.
- d. The proposed activity may have a potential for significant, adverse, and direct effects on a “sensitive area” which include but are not limited to the following:

- (1) Wetlands delineated by the U.S. Army Corps of Engineers in accordance with 33 CFR 328.3 and 40 CFR 230.3;
- (2) Historical and Archeological sites protected by the National Historic Preservation Act and National Executive Order 11593 and State Executive Order 16 administered by the N.C. Department of Cultural Resources;
- (3) National Historic Landmarks as designated in accordance with the Historic Site Act at 16 USC 461;
- (4) State Parks Lands administered in accordance with N.C.G.S. § 113-44.9;
- (5) State-Owned Game Lands administered in accordance with N.C.G.S. § 113-264 and 306(d);
- (6) State-Owned Forest Land administered in accordance with N.C.G.S. § 113-22;
- (7) State Nature Preserves and Dedicated Natural Areas administered in accordance with N.C.G.S. § 113A-164.1;
- (8) Primary and Secondary Nurseries designated in accordance with 15A NCAC 3R.0003 and 10C NCAC .0503, and Critical Habitat Areas designated in accordance with 15A NCAC 31.0001; and 101 NCAC .0001 (5);
- (9) State High-Quality Waters designated in accordance with 15A NCAC 2B.0201 (d); this includes waters classified as WS-I, WS-II, SA and ORW (Outstanding Resource Waters):
- (10) State Natural and Scenic Rivers designated in accordance with N.C.G.S. § 113A-30;
- (11) North Carolina Coastal Reserves designated in accordance with N.C.G.S. § 113A-129.1;
- (12) State Lakes administered in accordance with N.C.G.S. § 146-3; and
- (13) Lands which contain animal or plant species protected by the Federal Endangered Species Act (administered by the U.S. Fish and Wildlife Service), State Endangered and Threatened Wildlife and Wildlife Species of Special Concern Act (N.C.G.S. § 113-311 administered by the North Carolina Wildlife Resources Commission), State Plant Protection and Conservation Act (N.C.G.S. § 106-202.12 administered by the North Carolina Department of Agriculture).

[This is a rewrite of Administrative Memorandum #369.]

### **Occupational Safety and Health Program**

Congress enacted the *Occupational Safety and Health Act*, 91 P.L. 596. The object of this legislation is to assure, so far as possible, safe and healthful working conditions for every working man and woman in the Nation. In 1973 the General Assembly passed the *Occupational Safety and Health Act of North Carolina* (N.C.G.S. §§ 95-126 through 95-155). This act assigns the responsibility for administration of the State-wide Occupational Safety and Health Program to the North Carolina Department of Labor. Section 23 of this act outlines the responsibilities of public agencies. The attached *Occupational Safety and Health Plan for The University of North Carolina* has been provided the Department of Labor and is intended to assist the constituent institutions in establishing a campus-wide program in conformance with the act.

The University property officer is designated as the University of North Carolina safety and health officer. The safety and health officer will maintain close liaison with the Department of Labor and will be available to the campuses for consultation.

[This is a rewrite of Administrative Memorandum #30.]

**THE UNIVERSITY OF NORTH CAROLINA**  
**OCCUPATIONAL SAFETY AND HEALTH PLAN**

**1. PURPOSE:**

The purpose of this plan is to provide guidelines for the establishment of a comprehensive safety and health program on each campus of the University in accordance with 91 P.L. 596 and North Carolina General Statutes §§ 95-126 through 95-155.

**2. OBJECTIVES:**

The objectives of the safety and health program include the following:

- a. To provide safe and healthful working conditions for all persons directly or indirectly, full-time or part-time, employed by the University.
- b. To identify and correct as early as possible any and all unsafe or hazardous conditions on the campus.
- c. To provide, or make available at minimal cost as applicable, such personal equipment or devices as may be found necessary for protection of employees in their operations.
- d. To establish and maintain an environment conducive to the prevention of illness or injury of all persons.
- e. To plan, establish and conduct such educational programs as are deemed advisable to keep employees actively conscious of safety in all operations, on and off the job.
- f. To provide for first aid, by training and equipment, in event of accident, with a view to minimizing effects of any injury.
- g. To make all employees aware of OSHA provisions, and encourage their participation.

**3. RESPONSIBILITY:**

For purposes of the safety and health program, each campus is a public agency. The chancellor, as chief executive, is responsible for implementation of the program.

**4. ROLE OF NORTH CAROLINA DEPARTMENT OF LABOR:**

The North Carolina Department of Labor is responsible for administration of the *Occupational Safety and Health Act of North Carolina* (OSHA NC). Under the conditions of 91 P.L. 596, State administration of the act will be monitored by federal agencies for at least three years from passage of the State act. Provisions and standards for the State program are identical in most respects to the federal program, except that administration is at State level. The State program is self-inspecting with respect to public agencies. However, the State Department of Labor will provide advice and counsel, certain printed forms and materials, and inspection assistance as may be required. Reports required shall be submitted by the chancellor to the North Carolina Department of Labor.

**5. PERSONNEL INVOLVEMENT:**

In order to achieve successful results, the program must involve persons at a wide variety of administrative levels. Management belief in and support of the program is the primary requisite. Participation and cooperation of all employees shall be actively encouraged.

## 6. RECOMMENDED ORGANIZATION:

### a. Safety and Health Coordinator:

One person shall be designated for this position, responsible to the chancellor within a defined administrative framework. Qualifications for the position should include knowledge and experience in engineering, in building design and construction, in shop and safety practices, in administration, and in interpretation of building codes and standards. On smaller campuses this could be a part-time responsibility shared with campus engineering. On larger campuses a full-time position will be required, and further staffing will be necessary as conditions may dictate.

Other specialized safety areas, such as radiation safety, requiring special talents, may be parallel in technical authority for a particular area, but such activities should be responsible to the chancellor through the safety and health coordinator.

The safety and health coordinator shall maintain close liaison with the North Carolina Department of Labor, and shall prepare such reports and maintain such records as required by that department of the chancellor.

A principal responsibility of the safety and health coordinator shall be the preparation of a campus safety and health plan in accordance with standards and requirements of the Department of Labor. The plan shall be completed as soon as practicable and a copy provided the president by the chancellor.

All safety and health program records shall be open for inspection at any time by the North Carolina Department of Labor and by the University safety and health officer.

### b. Safety and Health Advisory Committee:

A broadly representative safety and health advisory committee should be appointed. This committee should have duties as follows:

- (1) To serve as liaison between the safety and health coordinator and campus employees.
- (2) To assist the safety and health coordinator by
  - (a) recognizing and reporting deficiencies needing attention,
  - (b) assisting in promotion of safety and health practices education,
  - (c) assisting the safety and health coordinator in investigation of any accident, incident or unsafe condition,
  - (d) and by such other means as requested by the safety and health coordinator.

## 7. REFERENCE MATERIAL:

The following reference material is available through the North Carolina Department of Labor:

- a. *Occupational Safety and Health Programs for State Agencies*, North Carolina Department of Labor.
- b. *Recordkeeping Requirements for OSHA*, U.S. Department of Labor.
- c. *General Industry Guide for Applying Safety and Health Standards*, U. S. Department of Labor.

**8. FUNDING:**

A request for funding for staff should be included in campus operating budget requests. Capital improvement funding should be included in campus capital improvement budget requests.

## **Use of the Social Security Account Number by The University**

It is the purpose of this policy to:

- (1) Review the conditions placed on the University by federal law for use of the social security account number.
- (2) Set forth examples of permissible and impermissible use of the social security account number.
- (3) Establish policy for the University in accordance with requirements of federal law.

### **Pertinent federal law**

Effective December 31, 1974, the federal Privacy Act of 1974 conditioned use of the "social security account number" of an individual by any "Federal, State or local governmental agency." The basic requirements of the act were two-fold:

- (1) that no governmental agency could "deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number" except refusal to disclose after a request pursuant to requirements of pre-existing federal statutes or pursuant to pre-existing federal or state statutes or regulations through which a system of records had already (before January 1, 1975) been set up.
- (2) that solicitation by a governmental agency of an individual's social security number be accompanied by the agency's statement of whether the disclosure is mandatory or voluntary, what statutory or other authority supports the request, and what uses will be made of the number.

When first enacted, the Privacy Act had no penalty for its violation nor statutory enforcer of its provisions. Through the Tax Reform Act of 1976 (94 P.L. 455), however, violation of the act was made a misdemeanor. Then, through enactment in 1981, of the Omnibus Reconciliation Act (97 P.L. 123) Congress raised violation of the act to a felony for which the convicted violator "shall be fined not more than \$5,000 or imprisoned for not more than five years, or both. "However, with these changes, four specific uses of the social security number were made permissible bases for requiring disclosure of the social security number. These were "the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within [the requesting or using agency's] jurisdiction."

### **Particular uses of the social security number by the University**

The social security number is a convenient, established personal identifier for keeping track of extensive administrative information. The number can be used to process tuition bills, announce and record grades, keep track of campus vehicles, maintain infirmary records, process graduate school applications, and report data to federal and state authorities, to name a few applications. However, only some of the foregoing can be accomplished through coerced disclosure of the social security number and none can be accomplished without disclosure of the use to which the number is put, without creating the elements of a felony crime.

For example, a student may be requested to disclose on the application for resident tuition status the student's social security number. The model application at Appendix B of the residence *Manual*,

though, conforms to statutory requirements by placing the word "voluntary" beside the appropriate blank on the form and setting forth on the form the following acknowledgment of the resident status applicant:

I hereby acknowledge that completion of Item 2 (Social Security number) is voluntary, is requested by the institution solely for administrative convenience and record-keeping accuracy, and is requested only to provide a personal identifier for the internal records of this institution.

On the other hand, N.C.G.S. § 116-44.4(f) authorizes the Boards of Trustees of each constituent institution to enact ordinances for the registration of vehicles on campus. This is an express statutory grant of authority under which a campus traffic ordinance could require that vehicle owners disclose their social security numbers as a means for recording and tracking vehicle ownership. Such use is expressly authorized. Furthermore, if a campus traffic ordinance requiring such use of the social security number had been enacted and the consequent record system was functioning prior to January 1, 1975, this use would be authorized by the Privacy Act as originally passed by Congress.

Similarly, mandatory disclosure of the social security number to trace debtors and collect debts owed the institution by set-off against state income tax refunds under N.C.G.S. Chapter 105A (Set-Off Debt Collection Act) is authorized. This is because the set-off process, as stated by the North Carolina Attorney General, is incident to the administration of a tax, a use authorized by the Tax Reform Act of 1976. (The Attorney General has also issued an opinion that disclosure by an institution pursuant to debt collection under the State Employee Debt Collection Act, N.C.G.S. Chapter 143, Article 60, is permissible provided that the disclosure be treated as a voluntary disclosure to be accompanied by the requisite institutional statement to the individual.)

In general, institutional use of the social security number must be accomplished by the prior institutional statement of basis (voluntary/mandatory), authority for disclosure, if any, and intended use. More often than not, the individual has the option of disclosure or nondisclosure. It is in this typical context that use of the number for admissions applications, tuition billing, grade reporting, infirmary records, and data reporting to external agencies will fall.

### **Administrative action**

It is the policy of the University of North Carolina that the social security account number shall be used within the university only in a manner consistent with the laws of the United States. Such usage shall be understood to include the following:

- (1) That any University use of the social security number shall fall within those uses authorized by federal law for mandatory disclosure or be uses where the individual is requested to voluntarily disclose the number.
- (2) That uses of the social security number authorized by federal law for mandatory disclosure from the individual consist only of the following:
  - (a) disclosure required by federal statute.
  - (b) disclosure to a federal, state, or local governmental agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to January 1, 1975.
  - (c) disclosure to any state, political subdivision, or agency to establish personal identification pursuant to administration of a tax law within the jurisdiction of the state or political subdivision.
  - (d) disclosure to any state, political subdivision, or agency to establish personal identification pursuant to administration of a general public assistance law within the jurisdiction of the state or political subdivision.

- (e) disclosure to any state, political subdivision, or agency to establish personal identification pursuant to administration of a driver's license law within the jurisdiction of the state or political subdivision.
  - (f) disclosure to any state, political subdivision, or agency to establish personal identification pursuant to administration of a motor vehicle registration law within the jurisdiction of the state or political subdivision.
- (3) That request by an employee of the University of North Carolina for disclosure and release of a social security number with respect to University business for a use not previously authorized shall be supported by a University statement to the individual indicating (a) whether the disclosure is mandatory or voluntary, (b) what statutory or other authority supports the disclosure, and (c) what use will be made of the disclosure.
  - (4) That a constituent institution, in lieu of soliciting disclosure of a social security number may establish a "dummy" social security number or other identifier for an individual, provided that the constituent institution does not have an affirmative duty, established by federal law, to obtain the actual social security number.
  - (5) That a constituent institution in lieu of soliciting use of a social security number already disclosed to it, may translate or encode the number into a form in which the social security number is not personally identifiable except by application of a decoder and then may use the number as transformed without reference to restriction under federal law, provided that the institution does not have an affirmative duty, established by federal law, to use the actual social security account number.

[This is a rewrite of Administrative Memorandum #172.]

**NOTES:**

## Publications and Mailing Lists of State Agencies

North Carolina General Statutes §§ 143-168 through 143-170.4 establishes State policy for agency publications and public document mailing lists. All State agencies, including the constituent institutions, must generate and distribute their "public documents" according to these policies.

The policies apply to "public documents" as defined in N.C.G.S. § 143-169.2 to mean "any annual, biennial, regular and special report or publication of which at least 200 copies are printed, but shall not include intra-agency communications nor agency correspondence." The Attorney General has ruled that "public documents" are only those documents "printed at State expense," that is, published using State appropriated funds. Therefore, to fall within the requirements of the statute a document must be an annual, biennial, regular or special publication, 200 or more copies of which are printed using State appropriated funds and excluding (a) intra-agency communications (such as this policy) and (b) agency correspondence. Agency correspondence is understood to be any written communication whose address label and content speak to an identifiable person or organization or group of identifiable persons or organizations.

### A. Printing Requirements for Public Documents

1. The statute requires that annual and biennial reports be compact, concise, and lucid. [N.C.G.S. § 143-168]
2. The act prohibits the use of multicolor [full color] process printing except for (1) scientific illustrations when the illustrations would be unintelligible if published in black and white and (2) in those instances when approval is given in advance by the Department of Administration. [N.C.G.S. § 143-169]
3. The statute requires that every publication published at State expense be prepared in accordance with the paper recycling and reuse requirements set forth in N.C.G.S. § 130A-309.14(j). Those requirements, to be established in further detail by the Department of Administration, generally promote use in "reports published by State agencies" of recycled and recyclable paper where practicable and printing on both sides of publication sheets. [N.C.G.S. § 143-169(c)]

When a public document is printed on recycled paper, the document must contain a statement or symbol indicating that it was printed on recycled paper. [N.C.G.S. § 143-170.1(a2)]

4. The statute requires that each public document, unless "published for the principal purpose of sale to the public" show on the document near the identification of its issuer, the following statement:

"[Number of copies] copies of this publication were printed at a cost of \$\_\_\_\_\_, or \$\_\_\_\_\_ per copy."

The statute prohibits the mailing or distribution at public expense of any public document lacking this statement.

"Cost" is defined to include printing costs in the form of labor, materials, and other identifiable design, typesetting and binding costs. [N.C.G.S. § 143-170.1]

The Office of State Budget and Management does not consider personnel manuals, State salary schedules, departmental accounting system manuals and budget manuals to be subject to this section of the act. These, however, would also seem to be intra-agency communications exempt by definition.

5. The act requires State agencies issuing public documents to review, update, and correct the mailing list for each public document at least every 12 months and that the agency certify to the director of the budget (the Governor) on or before July 1 of each year that the mailing list has been updated and corrected. [N.C.G.S. § 143-169.1(a)] Excluded from this requirement are documents that are hand-distributed or State-courier distributed. Also excluded are documents distributed on a one-time basis or distributed multiple times within the 12-month period before the annual certification but where it is not contemplated that the document will be mailed again after the annual certification. Further, mailing lists of alumni of a constituent institution of the University of North Carolina, used or maintained by the constituent institution, are not subject to this requirement.

To update and correct the mailing list, the statute requires that the agency include on the list only those persons or organizations who, within the previous 12 months, have either requested that they be included on the mailing list or have renewed a request that they be included, or are on the mailing list by express provision of statute or judicial order.

#### **B. Compliance.**

1. Each chancellor is considered the "chief administrator of the agency authorizing the printing" and is, therefore, responsible for compliance with the act.
2. Each chancellor shall be the certifying officer for all mailing lists generated at the institution.
3. In rendering the certification to the director of the budget, the certifying officer should use the following wording:
 

I certify that all mailing lists of [name of institution] subject to the provisions of N.C.G.S. § 143-169.1, have been carefully reviewed, updated, and corrected within the 12-month period ending June 30, 19\_\_\_, and were, therefore, in compliance with the requirements of the act as of June 30, 19\_\_\_.
4. This certification should be sent directly to the director of the budget by July 1 of each year.
5. Each chancellor should provide for the cost accounting of public documents as set forth in A.3. above.
6. When an agency fails to insert in a public document the cost statement and/or the notice or symbol concerning use of recycled paper when required, "the agency's printing budget for the fiscal year following the violation shall be reduced by ten percent (10%)." [N.C.G.S. § 143-170.1(a3)]

[This is an update to Administrative Memorandum #278.]

## **State Consulting Act**

The State Consulting Act, North Carolina General Statute § 143-64.20 through 143-64.24, created several problems regarding the administration of grants and contracts in support of academic programs involving instruction, research, and public service. Discussions between University officials and persons in the Division of Purchase and Contract resulted in the following understandings regarding the act.

1. "Consulting" means work or tasks performed by state employees or independent contractors possessing specialized knowledge, experience, expertise, and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis, or advice in formulating or implementing improvements in programs or services. This includes but is not limited to the organization, planning, directing, control, evaluation, and operation of a program, agency or department.
2. The use of individuals for institutional services, curriculum development and conducting academically oriented research is exempt from the prescribed procedures. This exemption does not, however, include the use of consultants for the primary purpose of assisting administrators with management decisions.
3. In those cases where the sponsoring organization requires that subcontractors be named in the proposal and such subcontractors are not exempt by the above criteria, approval must be obtained from the division of purchase and contract before the proposal is submitted.
4. All responsible efforts will be made to keep the time for responding to requests for approval of the employment of consultants to less than thirty days from the filing of the request.
5. Members of the University Council on Research will serve as a principal source of information for faculty at the constituent institutions and persons in the division of purchase and contract for the purpose of implementing the State Consulting Act. These University officials will assist persons preparing proposals, whenever necessary, in following required procedures. Furthermore, they will assist the Division of Purchase and Contract in identifying persons and/or departments that may be available for consulting with agencies and State government.

The president has authorized the chancellors, or the chancellors' designated representative, to approve consulting contracts. Particular note should be made of N.C.G.S. § 143-64.23 which states that "No disbursement of State funds shall be made and no such contract shall be binding until the provisions of N.C.G.S. §§ 143-64.21 and 143-64.22 have been complied with. Any employee or official of the State of North Carolina who violates this article shall be liable to repay any amount expended in violation of this article, plus court costs."

[This is a rewrite of Administrative Memorandum #155.]

**NOTES:**

### **Reporting Misuse of State Property by State Employees**

North Carolina General Statute § 114-15.1 creates an obligation on State employees who are informed of or have evidence of misuse of State property by a State employee to report that information within three (3) days to the reporting employee's immediate supervisor. The statute further specifies that the information must then be reported to the immediate supervisor's institutional head, and, in turn, within ten (10) days, to the director of the State Bureau of Investigation. Misuse includes such offenses as arson, attempted arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement or otherwise misuse of any State-owned personal or real property.

Each chancellor is appointed to function as institutional head as contemplated under N.C.G.S. § 114-15.1.

The president's office will administer N.C.G.S. § 114-15.1 with respect to General Administration.

Attached is a form for submitting written reports to the SBI. The SBI also requests, that in addition to the written report, immediate telephone notification be made to SBI headquarters (919-733-4311) as soon as such information is available. A copy of any report made by local law enforcement authorities relating to the offense should be forwarded to the SBI.

[This is a rewrite of Administrative Memorandum #84.]

STATE PROPERTY MISUSE-REPORT TO S.B.I.

(SUBMIT IN DUPLICATE. AS REQUIRED BY G.S. 114-15.1, FORM FOR USE BY DEPARTMENT HEAD TO REPORT INFORMATION OR EVIDENCE OF AN ATTEMPTED ARSON, OR ARSON, DAMAGE OF, THEFT FROM, OR THEFT OF, OR EMBEZZLEMENT FROM, OR EMBEZZLEMENT OF, OR MISUSE OF ANY STATE-OWNED PERSONAL PROPERTY, BUILDINGS, OR OTHER REAL PROPERTY.)

Department: \_\_\_\_\_ Div/Instit/Agency: \_\_\_\_\_ Tel.#: \_\_\_\_\_
Address: \_\_\_\_\_ Bus. Tel.#: \_\_\_\_\_
Employee Reporting Info: \_\_\_\_\_
Type of Crime: \_\_\_\_\_ Property Attacked: \_\_\_\_\_
Date of Crime: \_\_\_\_\_ Time: \_\_\_\_\_ City & County: \_\_\_\_\_
Description of Crime: \_\_\_\_\_

STOLEN/DAMAGED PROPERTY:

Table with 8 columns: (QUANTITY), (ITEMS), (EQUIP. #), (SERIAL #), (MODEL), (COLOR), (SIZE), (VALUE). Rows 1-4.

SUSPECTS:

Name: \_\_\_\_\_ Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Age: \_\_\_\_\_ Add: \_\_\_\_\_
Name: \_\_\_\_\_ Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Age: \_\_\_\_\_ Add: \_\_\_\_\_
Name: \_\_\_\_\_ Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Age: \_\_\_\_\_ Add: \_\_\_\_\_

(If reported to Local Authorities: Department: \_\_\_\_\_ Date: \_\_\_\_\_
(Attach copy of Local Authorities' Report)
Was Stolen Property Entered into NCIC: \_\_\_\_\_

(DATE OF REPORT) \_\_\_\_\_ (DEPARTMENT HEAD) \_\_\_\_\_

FOR SBI USE

SBI File #: \_\_\_\_\_

Date Report Received: \_\_\_\_\_

Filed with no Bureau Action. Info. copy sent to \_\_\_\_\_ District on \_\_\_\_\_
Referred to \_\_\_\_\_ District for investigation on \_\_\_\_\_
Case handled by local Department \_\_\_\_\_
Case referred to \_\_\_\_\_ Dept. for administrative action on \_\_\_\_\_
Other (Specify): \_\_\_\_\_

(DATE) \_\_\_\_\_ (AGENT) \_\_\_\_\_

### **Policy on Seat Belt Use**

The State of North Carolina requires that seat belts be used by all drivers and front-seat passengers in most types of motor vehicles. To re-enforce and complement that requirement, it is the policy of the University of North Carolina that all persons (both employees and students) traveling in a State vehicle assigned to the University shall use available front and back seat belts. Failure to comply with this policy may result, at the option of the campus, in the withdrawal of an individual's privilege of using State vehicles.

[This is a rewrite of Administrative Memorandum #226.]

**NOTES:**

**Policies and Procedures of UNC General Administration with Respect to the  
Family Educational Rights and Privacy Act**

On March 30, 1995, the constituent institutions were advised of the determination by the Family Policy Compliance Office, U.S. Department of Education, that UNC General Administration must establish policies and procedures under the Family Educational Rights and Privacy Act of 1974 (FERPA) to the same extent as an institution with enrolled students. Attached are the policies and procedures of UNC General Administration for the purposes of establishing students' rights under FERPA to examine their education records maintained by this office, to seek modification to those records, and to condition disclosure of those records to third parties.

Among other considerations these policies and procedures address the matter of records maintained at UNC General Administration that are the same as, or the derivative of, student records of a constituent institution. In general, a student who has accessed his or her education records at UNC General Administration will be directed to the enrolling institution for any remedy aimed at modifying or correcting those records. UNC General Administration will, in turn, then consider what, if any, change should be made to its records derived from those institutional records if the institution has deemed a change to be appropriate.

These policies and procedures place three specific duties on the constituent institutions:

1. to provide each year to students UNC General Administration's annual notification of their FERPA rights. This may be done through annual distribution of a sheet containing the statement of rights or by publication of those rights in some document of general, annual distribution (e.g., a catalog, a student newspaper, an orientation leaflet). (The annual notification text is attached to the UNC General Administration policies and procedures.)
2. to maintain for student access a copy of the UNC General Administration FERPA policies and procedures in the same place and in the same manner that the institution has established for student access to its own FERPA policies and procedures.
3. to file with UNC General Administration a copy of the institution's current FERPA policies and procedures. This is necessary, in particular, so that this office can honor the "directory information" policies of the institution and can refer to the appropriate institutional office on campus any student challenge to records reposing at UNC General Administration but originating at the institution.

These policies and procedures are effective immediately.

**THE UNIVERSITY OF NORTH CAROLINA  
GENERAL ADMINISTRATION**

**POLICIES AND PROCEDURES UNDER THE  
FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974  
(EFFECTIVE MAY 25, 1995)**

The University of North Carolina General Administration ("General Administration") has adopted these policies and procedures in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. Sec. 1232g (as amended). These policies and procedures pertain to the education records of students within the University of North Carolina ("the University") that General Administration maintains, whether those records were created by General Administration or by a University constituent institution and provided to General Administration.

It is the policy of General Administration that University students be accorded the full legal rights provided them under FERPA. Students currently enrolled at a constituent institution of the University of North Carolina are notified annually of these rights by means of an annual notification (which is distributed through the students' respective institutions) and by these policies and procedures (which are distributed to and maintained by all constituent institutions of the University of North Carolina and are referenced in an institutional publication of general distribution). The annual notice to students of their rights with respect to their education records at General Administration and these policies and procedures are in addition to that notice and those policies and procedures with respect to FERPA of each constituent institution. A copy of the current annual notification by General Administration to students is attached to, and made a part of, these policies and procedures.

Throughout this document the numbers cited within the brackets at various places within the text refer to federal FERPA regulations (as revised 1995). These regulations contain narrow exceptions and specific rules for certain special situations that are not always spelled out in the general policy. Therefore, in dealing with specific FERPA questions, individuals should refer to the FERPA regulations, which are provided with this document.

With respect to the education records of students in the high school division of the North Carolina School of the Arts rights afforded under these policies and procedures to a student are to be afforded, instead, to the student's parents to the extent established by FERPA.

**I. The Student's Right to Inspect His or Her Education Records.**

- A.** Any individual who is, or has been, in attendance at a constituent institution of the University is a "student" and has the right to inspect and review his or her education records. [99.3, 99.10]

"Education records" are those records directly related to a student that are maintained by an educational institution. The term does not include:

1. Records of instructional, supervisory, and administrative personnel that are in the sole possession of their maker and are not revealed to anyone else except a substitute.
2. Records created and maintained by a University law enforcement unit for law enforcement purposes.
3. Records relating solely to an employee of General Administration or of a constituent institution of the University of North Carolina in the individual's capacity as an employee that are not available for any other purposes. (However, records relating to a University student who is employed as a result of his or her status as a student are education records.)

4. Student medical records created, maintained, and used only in connection with provision of medical treatment to the student, that are not disclosed to anyone other than the individuals providing the treatment. (While a student may not inspect his or her medical records, these records may be reviewed personally by a physician of the student's choice.)
  5. Records that contain only information relating to a person after he or she is no longer a student, such as alumni records. [99.3]
- B.** A student is not permitted to inspect the following records:
1. Financial records and statements of his or her parents.
  2. Confidential letters and confidential statements of recommendation that were placed in his or her education records before January 1, 1975, and that are used only for the purposes for which they were intended.
  3. Confidential letters and confidential statements of recommendation concerning (a) admission to an educational institution, (b) an application for employment, or (c) the receipt of an honor, that were placed in his or her education records after January 1, 1975, where the student has waived his or her right to inspect those letters and statements. [99.12]
- C.** A student who wishes to inspect his or her education records must file a written request for inspection with the individual who has custody of the records. In some cases the student will be able to review the records immediately while, in other cases, a certain amount of time will be needed to assemble the records for inspection, but the student will not be required to wait more than 45 days after receipt of the request before being allowed to inspect his or her education records. A student who exercises the right to review his or her education records is also entitled to a response from General Administration to reasonable requests for explanations and interpretations of those records. If a student has asked to inspect or review his or her education records, none of those records shall be destroyed until the student's request to inspect or review has been honored. [99.6, 99.10]
- D.** General Administration, upon a student's request, may provide a student with a copy of his or her education records, and General Administration will always provide a student a copy of his or her education records where failure to provide such a copy would effectively prevent exercise of the right to inspect and review education records. The office providing the copies may charge a reasonable fee for each copy but will not charge a fee to search for or retrieve the records in question. [99.6, 99.10, 99.11]
- General Administration may deny a request for a copy of education records if the student is easily able to come to the office that maintains the records and inspect them in person and if the records are so voluminous that copying them would be unreasonably burdensome for General Administration employees charged with the task. [99.6]
- E.** Education records are maintained by several offices and officials at General Administration. Most of these records are copies or derivatives of education records created at a constituent institution of the University; some, though, may include additional education records created at General Administration. Offices at General Administration that are most likely to maintain education records are listed below:
1. Academic Affairs Division.
  2. Legal Affairs Division.

3. Planning Division.
4. Research Division.
5. Student Services and Special Programs Division.

All requests to inspect education records should be directed to the secretary of The University of North Carolina, whose office can be reached through the main telephone number of General Administration in Chapel Hill, which is 919-962-1000. The secretary will determine the location of records pertinent to the inquiry and direct the student's request to the appropriate General Administration office. [99.6]

## **II. The Student's Right to Seek Correction or Amendment of His or Her Education Records.**

- A. A student who believes that information contained in his or her education records is inaccurate or misleading or violates his or her privacy rights may discuss these concerns informally with the custodian of the records in question and may request that they be amended. [99.20]
- B. Requests to amend education records at General Administration whose information is identical to or derivative of education records provided from another education agency (such as a constituent institution of the University) will be referred to the originating educational agency for consideration of the student's request to amend. Notation of this referral will be placed with the pertinent education records of General Administration. Upon being informed of the disposition by the originating agency of the request to amend, the custodian will determine what action, if any, is appropriate with respect to related education records at General Administration. [99.20]
- C. If the custodian finds that the request to amend relates to education records created by General Administration and if the custodian agrees with the request for amendment, the custodian will amend the records and so notify the student. If the custodian does not agree to the amendment, the custodian will notify the student within a reasonable period of time that the records will not be amended and will inform the student of his or her right to a formal hearing. All formal hearings will be conducted by the Education Records Committee of the University of North Carolina General Administration (the "committee"). The committee members shall be appointed by the president of the University from staff of General Administration in such numbers and for such terms of service as he may deem appropriate; however, no member of the committee shall participate in a hearing in whose outcome the member has any direct interest. [99.20, 99.21, 99.22]
- D. Should the student and General Administration agree that an explanatory statement alone is the appropriate remedy, the student has the right, in lieu of requesting a formal hearing, to place a statement in his or her education records commenting on the information in question and/or setting forth any reasons for disagreeing with the custodian's decision not to amend. Any such statement will be maintained as part of the student's education records as long as the record, or the contested portion of the record, is maintained by General Administration, and the statement will be disclosed to any party to whom the contested portion of the student's education record is disclosed thereafter. [99.21]
- E. A student request for a formal hearing must be submitted within fifteen (15) days after the student receives notice from the records custodian of his or her right to a formal hearing and must be addressed to the secretary of the University, who will promptly refer it to the appropriate person or panel for hearing. The request for hearing must be written, be signed by the student, and contain a written statement setting forth the nature of the student's grievance and the attempts the student has made to resolve the

matter with the custodian of the records in question. [99.6, 99.21]

- F. A hearing will be held on the matter within a reasonable time after receipt of the student's request, and he or she will be given reasonable advance notice of the date, place, and time of the hearing. [99.22]
- G. The student will be afforded a full and fair opportunity to present evidence relevant to the issues raised in the complaint and may be assisted by individuals of the student's choice at his or her own expense, including an attorney. [99.21]
- H. The committee's decision will be based solely on the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision. The student will be notified in writing of the committee's findings and recommendations within a reasonable period of time after the conclusion of the hearing. If the committee decides that the challenged information within the student's education records is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it will recommend that the appropriate General Administration official amend the student's education records accordingly, and the official will inform the student in writing when the amendment has been made. [99.22]
- I. If the committee decides that the challenged information from the student's education records is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it will inform the student that he or she has the right to place a statement in his or her education records commenting on the information and/or setting forth any reasons for disagreeing with the committee's decision. Any such statement will be maintained and disclosed as set forth in section II.D., above. [99.21]

### **III. Disclosure of Personally Identifiable Information from a Student's Education Records.**

- A. "Personally identifiable information" means such information as the name of the student, his or her parent, or a member of the student's family; the address of a student or a member of the student's family; a personal identifier such as the student's social security number or student ID number; a list of personal characteristics from which the student can be easily identified; or other information from which the student can be easily identified. [99.3]
- B. With certain exceptions, listed in section III.D., below, General Administration will not disclose personally identifiable information from a student's education records without the student's prior written consent. To be effective, the written consent must be signed and dated by the student and must include:
  1. A specification of the records to be disclosed;
  2. The purpose of the disclosure; and
  3. The party or class of parties to whom the disclosure may be made. [99.30]
- C. When personally identifiable information is disclosed from a student's education records pursuant to his or her written consent, the student may also, upon request, obtain a copy of the information so disclosed. [99.30(c)]
- D. General Administration may disclose personally identifiable information from a student's education records without his or her prior written consent in the following situations:
  1. Disclosure to other school officials, including teachers, officials, and employees of the University who are determined to have a legitimate educational interest in the information. Such officials are deemed to have a

"legitimate educational interest" in the information if it is necessary or desirable for them to obtain the information in order to carry out their official duties and/or to implement the policies of the University. [99.31(a)(1)]

2. Disclosure to officials of another school or school system in which the student seeks or intends to enroll and disclosure to officials of another school or school system in which a currently enrolled University student is contemporaneously enrolled. (Note: students are hereby notified that it is the policy of General Administration to forward education records upon request to officials of other schools or school systems in these situations without notifying the student of such transfer of records.) Upon request the student will be provided a copy of the education records so transferred. [99.31(a)(2), 99.34]
3. Disclosure to authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, or State educational authorities in connection with the audit and evaluation of federal or State-supported education programs or in connection with enforcement of or compliance with federal legal requirements relating to such programs. (Note. Unless the collection of personally identifiable information is specifically authorized by federal law, the recipients of the personally identifiable information under this section must handle it in such a way that students and their parents cannot be identified therefrom by individuals outside the recipients' organizations, and personally identifiable data must be destroyed when it is no longer needed.) [99.31(a)(3), 99.35]
4. Disclosure in connection with financial aid for which a student has applied or which he or she has received. Information may be disclosed under this provision only to determine a student's eligibility for financial aid, to determine the amount of the aid, to determine the conditions which will be imposed regarding the aid, or to enforce the terms or conditions of the financial aid. [99.31(a)(4)]
5. Disclosure to State and local officials or authorities to whom information is specifically allowed to be disclosed pursuant to State statute adopted:
  - (a) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and that system's ability to serve effectively the student whose records are released; or,
  - (b) after November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and that system's ability to serve effectively, prior to adjudication, the student whose records are released, and if the officials to whom the information is disclosed certify in writing to General Administration that the information will not be disclosed to any other party without the student's consent, except as provided under State law. [99.31(a)(5)]
6. Disclosure to organizations conducting studies for, or on behalf of, General Administration, or an institution or agency of the University, for the purpose of (a) developing validating, or administering predictive tests; (b) administering student aid programs; or (c) improving instruction. The recipients of personally identifiable information under this section must handle it in such a way that students and their parents cannot be identified therefrom by individuals outside the recipients' organizations, and personally identifiable data must be destroyed when it is no longer needed for the purposes of the study. [99.31(a)(6)]

7. Disclosure to accrediting organizations in order to carry out their accrediting functions. [99.31(a)(7)]
8. Disclosure to a student's parents, if the student is their dependent for federal income tax purposes. [99.31(a)(8)]
9. Disclosure pursuant to a judicial order or lawfully issued subpoena. In some situations prior notification may not be possible; but General Administration will make a reasonable effort to notify the student of the order or subpoena before complying with it. However, in the case of a federal grand jury subpoena or any other subpoena issued for law enforcement purposes, General Administration will comply with any court or issuing agency order not to disclose to the student or anyone else the existence of or contents of the subpoena or any information furnished in response to the subpoena. [Note. General Administration will deem the filing by a student of a petition for judicial review a full and sufficient consent by the student to General Administration to release to the court any and all education records of the student responsive to the petition.] [99.31(a)(9), 99.31(b)]
10. Disclosure to appropriate parties in a health or safety emergency if the information is necessary to protect the health or safety of the student or others. [99.31(a)(10), 99.36]
11. Disclosure of "directory information" of a University constituent institution in the possession of General Administration that has been defined, authorized, and compiled, to the best knowledge of General Administration, in a manner consistent with FERPA. [99.3, 99.31(a)(11)]
12. Disclosure to the parents of a student of the High School Division of the North Carolina School of the Arts who has not reached age 18 nor subsequently enrolled in an institution of post-secondary education. [99.3, 99.31(a)(12)]
13. Disclosure of the results of certain disciplinary proceedings for alleged violations of institutional codes of student conduct upon which appeals therefrom have been taken pursuant to The Code and Policies of the Board of Governors of the University of North Carolina (the "Code and Policies"). If the alleged violation:
  - (a) involved the use, attempted use, or threatened use of physical force against the person or property of another; or,
  - (b) is a felony that, by its nature involves a substantial risk that physical force may be used against the person or property of another in the course of committing the offense.

General Administration may disclose the results of the disciplinary proceeding and its subsequent review upon appeal to the Board of Governors, to the alleged victim of the offense. [99.31(a)(13)] [Note. By reason of federal law external to FERPA, that is, the Student Right-to-Know and Campus Security Act, in tandem with the Higher Education Amendments of 1992, alleged victims of sexual assault must be permitted access to the results of related disciplinary proceedings and administrative review.]
14. If the University Board of Governors affirms a constituent institution's disciplinary action against a student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the University community, General Administration may disclose information

about that disciplinary action to teachers and school officials in other schools who have legitimate educational interests in the student's behavior. [99.31(a)(13)(b)]

15. While the foregoing provisions of this section III.D. permit certain disclosures without the subject student's prior consent, under FERPA such disclosures are permissive and can be further conditioned or even prohibited by the custodial institution or agency. Where, then, the education records considered for disclosure are the same as or derivative of education records first created at a constituent institution of the University, General Administration will seek to preserve and follow any relevant restriction to permissive disclosure. To accomplish this policy, General Administration directs that each University constituent institution maintain on file with general administration a copy of the institution's current FERPA policy. [99.31(b)]

- E. When personally identifiable information from education records is disclosed to another party, that party may not further disclose the information without the student's prior written consent, unless:
1. The initial disclosure is made with the understanding that the party receiving the information may redisclose it to specified individuals or organizations who meet the requirements of section III.D., above; and,
  2. The record of disclosures (as required in section III.F., below) includes the names of the additional parties to whom the information may be disclosed and the legitimate interests that each additional party has in obtaining the information. [99.31, 99.32, 99.33]

If a party to whom such information is released permits access to the information in violation of this section III.E., that party will not be allowed access to information from General Administration education records for five years. This denial of access, however, shall not be enforced against State and local educational authorities accessing education records pursuant to section III. D. 3., above, nor against the alleged victim of an offense under an institutional code of conduct, accessing education records pursuant to section III.D.13., above.

- F. Custodians of education records will maintain a record of disclosures of personally identifiable information from each education record. The record of disclosures will be kept with the student's education records and will include names of parties who have requested or obtained personally identifiable information therefrom and the legitimate interest those parties had in obtaining the information. [99.32]

The record of disclosures will not include disclosures to the student, disclosures to school officials with legitimate educational interests, disclosures pursuant to the student's written consent, or disclosures of "directory information" as defined above. [99.32]

The record of disclosures may be inspected only by the student, the records custodian and his or her assistants, and school or federal officials charged with auditing the record-keeping procedures of General Administration. [99.32]

#### **IV. Limit to FERPA Protection of Education Records**

FERPA's protection of personally identifiable information in a student's education records ends at the time of a student's death. Unless General Administration has information to the contrary, General Administration will presume that a student is deceased 75 years after the student's education records were created. Thereafter the student's education records will be open. [99.60(b)(2)]

Neither the foregoing policy concerning the duration of FERPA protection to education records that are in existence nor any other part of these policies and procedures places any obligation on General Administration to maintain specific education records for which there is no pending student request to inspect or to amend.

**V. Complaints to the U.S. Department of Education.**

Complaints alleging violations by General Administration of the provisions of FERPA or the regulations promulgated thereunder may be submitted in writing to Family Policy Compliance Office, U.S. Department of Education, 600 Independence Avenue, SW, Washington, D.C. 20202-4605, within 180 days of the date of the alleged violation or the date the complainant knew or reasonably should have known of the alleged violation. The office may extend the time period if the complainant has a good reason for having missed the deadline. [99.63, 99.64]

**STUDENTS' EDUCATION RECORDS  
AT THE UNIVERSITY OF NORTH CAROLINA GENERAL ADMINISTRATION:  
ANNUAL NOTIFICATION OF RIGHTS**

Certain personally identifiable information about students ("education records") may be maintained at the University of North Carolina General Administration, which serves the Board of Governors of the University system. This student information may be the same as, or derivative of, information maintained by a constituent institution of the University; or it may be additional information. Whatever their origins, education records maintained at General Administration are subject to The federal Family Educational Rights and Privacy Act of 1974 (FERPA).

FERPA provides that a student may inspect his or her education records. If the student finds the records to be inaccurate, misleading, or otherwise in violation of the student's privacy rights, the student may request amendment to the record. FERPA also provides that a student's personally identifiable information may not be released to someone else unless (1) the student has given a proper consent for disclosure or (2) provisions of FERPA or federal regulations issued pursuant to FERPA permit the information to be released without the student's consent.

A student may file with the U.S. Department of Education a complaint concerning failure of General Administration or an institution to comply with FERPA.

The policies of the University of North Carolina General Administration concerning FERPA may be inspected in the office at each constituent institution designated to maintain the FERPA policies of the institution. Policies of General Administration may also be accessed in the office of the secretary of the University of North Carolina, General Administration, 910 Raleigh Road, Chapel Hill, North Carolina.

Further details about FERPA and FERPA procedures at General Administration are to be found in the referenced policies. Questions about the policies may be directed to the Division of Legal Affairs, The University of North Carolina General Administration, Annex Building, 910 Raleigh Road, Chapel Hill, North Carolina (mailing address Post Office Box 2688, Chapel Hill, NC 27515-2688; telephone: 919-962-4588).

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