



## **02.110 PUBLIC RECORDS POLICY**

Authority: Chancellor

History: Revised July 2011; December 8, 2009; May 8, 2005

Source of Authority: UNC Policy Manual, Section 502

Related Links: FERPA Policy; Records Retention Schedule

Responsible Office: General Counsel

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### **I. Purpose**

The University of North Carolina at Wilmington is open and responsive to information requests from the public and the news media. In instances where there is a question about the legality of releasing information, campus units receiving public records requests should consult with the office of general counsel. This policy shall be implemented in accordance with the NC Public Records Act and other applicable federal and state laws.

### **II. Public Records Requests**

- A. All records created or received in the course of university business, in whatever format including paper, photographs, recordings, or emails, constitute public records unless an exception applies.
- B. Individuals who seek to access public records of the university should direct a written request to the custodian of the records being sought. The custodian of records is the person responsible for a particular office or type of record maintained at the university. For instance, student record requests should be directed to the registrar, personnel records requests should be directed to the director of human resources, and law enforcement records requests should be directed to the chief of police.
- C. Administrators, faculty, and staff who receive public records requests should notify the office of general counsel that a request has been received and confer to determine whether an exception to the NC Public Records Act applies. Consultation should take place prior to releasing information that may be of a confidential nature. In event of a court hearing to compel disclosure of public records, no order for attorney's fees may be assessed against a public employee in any case where the employee sought legal advice and such advice was followed.

D. Exceptions that make records confidential are established by federal and state privacy and privilege laws. Any questions regarding the confidentiality of records or portions of records must be directed to the office of general counsel. The most common exceptions, include, but are not limited to, the following:

1. Personnel records

An employee's personnel records are confidential in accordance with the NC Personnel Records Act, except the following information is public about every employee:

- a. Name;
- b. age;
- c. date of original employment or appointment to state service;
- d. current salary (including total compensation);
- e. date and amount of each increase or decrease in salary;
- f. date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification;
- g. date and general description of the reasons for each promotion;
- h. date and type of each dismissal, suspension, or demotion for disciplinary reasons taken; if the disciplinary action was a dismissal, a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal;
- i. office or station to which the employee is currently assigned;
- j. term of any employment contract; and
- k. current position and title.

2. Students' academic, medical and counseling records

State privilege laws require that medical and counseling records be kept confidential, and federal disabilities law requires confidentiality for medical information provided in connection with Americans with Disability Act and the Rehabilitation Act. In addition, the Family Educational Rights and Privacy Act (FERPA) restricts information that can be released about a student. UNCW's FERPA Policy states what information about a student may be released, also known as directory information. Before releasing directory information about any student, the custodian receiving the request must check with the

registrar's office to determine whether the student has placed a privacy block on the information.

3. Patent applications and other documents that contain trade secrets
  4. Certain criminal investigation and law enforcement records
  5. Minutes of closed meetings under the NC Open Meetings Act
- E. The custodian of records must permit inspection of the requested records as promptly as possible after receiving the public records request. Access to public records must be made at reasonable times and under reasonable supervision. The custodian must separate any confidential information from otherwise accessible public records.

### **III. Costs for Copies and Special Service Charge for Extraordinary Requests**

- A. If the requestor asks for copies, the university may charge the actual costs of making the copies but not the costs of labor. Generally, the university will not charge for the costs of the copies unless the amount equals fifty dollars (\$50.00) or more. For extraordinary reproduction or copying requests, the university may charge a special service fee as stated in part B below. The special service charge for production of extraordinary public records requests is separate and distinct from the copying charge.
- B. If the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the university for reproduction of the volume of information requested, then the university may charge, in addition to the actual cost of duplication, a special service charge. The special service charge shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency. The university considers four (4) hours or more to constitute extensive use of personnel and shall charge for the clerical and supervisor assistance associated with such a request. The custodian shall estimate the costs of such extraordinary requests prior to making the documents available for inspection and allow the requestor the option of either agreeing to pay the costs or revising the request to narrow its nature or scope.

#### **IV. Retention of Public Records**

- A. Public records may not be destroyed, except in accordance with the university' records retention schedule.
- B. The university has a legal obligation to maintain all records that relate to a matter in litigation or other legal action. This obligation overrides the university's records retention schedule. Upon notification from the office of general counsel, individuals may not destroy or delete any records relating to a matter in litigation or a grievance or pertaining to other legal matters.