



**NORTH CAROLINA AGRICULTURAL AND  
TECHNICAL STATE UNIVERSITY  
PUBLIC RECORDS REQUESTS  
UNIVERSITY POLICY**

**INTRODUCTION**

North Carolina Agricultural and Technical State University, as a constituent institution of the University of North Carolina and instrumentality of the State of North Carolina, is open and responsive to requests for information from the public and the news media. This policy will be implemented and construed in accordance with the provisions of the North Carolina Public Records Act, N.C.G.S. Chapter 132, (statute), and other applicable state and federal laws.

**SCOPE**

This policy applies to all requests for public records made to the University, regardless of the requestor and to all University employees who, in the course of their employment duties, create public records, have access to public records, or receive requests for public records.

**DEFINITIONS**

Public Records

All records created or received in the course of University business, in whatever format, including but not limited to paper, photographs, recordings, emails, or digital images, constitute a public record unless an exception applies under federal or state law. The physical location of the records is inconsequential, and records created in the course of University business on personal devices (computers, smartphones, etc.) are still public records that are subject to the statute and this policy statement.

Records Custodian

The person responsible for a particular office or type of record maintained at the University (e.g., registrar for student records). Each University unit must designate an individual within the unit to serve as the unit's Records Custodian.

## **POLICY AND PROCEDURES**

### Public Records Requests

#### *Requests From The Public*

Individuals seeking public records must submit those requests in writing to the Office of Legal Affairs. Requests may be submitted via email to ([public\\_records@ncat.edu](mailto:public_records@ncat.edu)) or via mail or hand delivery to the Public Records Custodian, Office of Legal Affairs, 422 Dowdy Administration Building, 1601 East Market Street, Greensboro, NC 27411. A written request is required so that the University can ascertain what records are being requested. If a request is not made in writing, the records custodian should direct the requestor to this policy so that a written request can be obtained.

Administrators, faculty, and staff (records custodians) who receive requests for public records should notify the requestor that such requests must be made in writing and submitted to the Office of Legal Affairs consistent with the process outlined above.

The University must permit inspection of the requested records as promptly as possible after receiving the public records request. Access to public records must be given at reasonable times and under reasonable supervision. The University must separate any confidential information from otherwise accessible public records. Such separations and redactions must be done by the Office of Legal Affairs. North Carolina law does not require the University to respond to a request for a public record by creating or compiling a record that does not exist.

#### *Requests From Media*

The Office of University Relations serves as the primary campus liaison with the news media. Requests for information from the news media should be directed to the Director of Media Relations. Requests from the news media that involve issues other than standard media requests should be directed to the Office of Legal Affairs as outlined above. The Office of University Relations shall keep a record of all requests and responses.

#### *University Response To Records Requests*

The University must permit inspection of the requested records as promptly as possible after receiving the public records request, and upon payment of all fees due. The University may also provide copies of the requested documents, subject to the provisions on copying costs below. Access to public records may be limited to reasonable times during regular business hours and under reasonable supervision. The University must separate out or redact any confidential information from otherwise accessible public records prior to public inspection or release of requested records.

#### *Confidential Information*

Certain information is confidential under state or federal law and not subject to disclosure. The University will separate out or redact any confidential information from otherwise accessible

public records prior to inspection and/or distribution of requested records. University Relations will confer with the Office of Legal Affairs regarding the confidentiality of records or portions of records prior to the disclosure of such records. The most common exceptions to disclosure include, but are not limited to, the following types of information:

1. Personnel records – Most information in an individual’s personnel record is confidential under the State Human Resources Act, N.C.G.S. Chapter 126, but certain information about each employee is open to public inspection under N.C.G.S. § 126-23. The Office of Human Resources maintains separate records containing public information and provides that information upon request. Requests for confidential personnel records, other than by the actual employee, must be accompanied by a duly-executed release.
2. Students’ academic, medical, and counseling records – State law mandates that medical and counseling records are confidential. The Family Educational Rights and Privacy Act (FERPA), as amended, restricts disclosure of a student’s education records, but allows the release of directory information unless the student files a request with the University that it not be released. The University’s definition of “directory information” is set forth on the website of the Office of the Registrar. Before releasing directory information about any student, the employee receiving the request must consult with the University Registrar to determine whether a student has requested that directory information not be released. FERPA provides other exceptions for disclosure, including disclosure with the written consent of the student.
3. Library user records – N.C.G.S. § 125-19 prohibits a library from disclosing “any library record that identifies a person as having requested or obtained specific materials, information, or services, or as otherwise having used the library, except ... (1) when necessary for the reasonable operation of the library; (2) upon written consent of the user; or (3) pursuant to subpoena, court order or where otherwise required by law.”
4. Patent applications and other documents that contain trade secrets as defined in state law.
5. Certain contracts or bid records prior to the final award of the contract.
6. Attorney-client communications and trial preparation materials.
7. Certain criminal investigations and law enforcement records.
8. Emergency response plans, including, but not limited to, the University’s Emergency Operations Plan.
9. Minutes of closed sessions of public bodies.
10. Personal (non-work related) communications.

### *Copying Fees*

If the requestor asks for copies of documents, the University may charge the actual costs of the copies or when media is provided (e.g., disk or flash drive), materials used. Generally, the University will not charge for the costs of copies unless the number of pages exceeds twenty-five (25) pages. Thereafter, the charge will be ten (10) cents per page for black and white copies. If the request requires special processing (e.g., color copies, out-sourcing of copying function, etc.), the actual cost of such handling shall be calculated on a case-by-case basis.

### *Special Service Charge For Extraordinary Public Records Requests*

If the request requires extensive use of information technology resources or extensive use of personnel for clerical or supervisory assistance, or if producing the records in the medium requested results in excessive use of information technology resources, then the University may charge, in addition to the copying fee, a special service charge. The special service charge will be reasonable and no greater than the actual costs incurred. For purposes of this section, the University considers more than four (4) hours required to respond to a request as constituting an extensive use of personnel. If preparation of the response requires the extensive use of personnel, University will charge a presumed rate of \$25.00 per hour for each hour, in excess of four hours, required to respond to the request.

The University will provide an estimate of the costs for an extraordinary request prior to making the records available for inspection or release and allow the requestor the option of either making the requested payment or revising the request to narrow its nature or scope. If the amount paid turns out to be higher than the actual labor, mailing, materials, and copying costs, then the University shall thereafter notify the requestor and return the difference in the amount paid to the requestor.

Multiple requests within a short period of time from the same individual will be considered a single request for purposes of determining whether to charge under this section. For purposes of this section, periods exceeding three (3) months will not be considered a short period of time.

### *Retention of Public Records*

Public records may not be destroyed, except in accordance with the University's records retention schedule. The University has a legal obligation to maintain all records that relate to a matter in litigation or other legal action, including pending public records requests. This obligation overrides the University's records retention schedule. Upon notification from the Office of Legal Affairs, individuals may not destroy or delete any records relating to a matter in litigation or a grievance or pertaining to other legal matters.

*Non-compliance*

Individuals who fail to comply with this policy may be subject to disciplinary action, including termination. Under N.C.G.S. § 132-5.1, individuals who unlawfully retain public records can be ordered to return those materials to the University.

Unlawful withholding of public records from the public may subject an individual to conviction and a Class 1 misdemeanor. State law also provides the unlawful alteration or destruction of public records will result in a Class 3 misdemeanor and a fine on conviction.

Approved by the Chancellor

October 21, 2019