

Chair Beard & Members of the Senate Education Committee,

HB 1542 is a simple bill that fixes a "glitch" in our open records laws. Under 44-04-18 of ND Code and Section 311 of the Policy Manual of the State Board of Higher Education, all admissions records are open to the public.

44-04-18. Access to public records - Electronically stored information.

1. Except as otherwise specifically provided by law, all records of a public entity are public records, open and accessible for inspection during reasonable office hours.

<https://ndlegis.gov/cencode/t44c04.pdf>

Section 311 Policy. Except as otherwise specifically provided by law, all records of the State Board of Higher Education, the North Dakota University System, and its institutions are public records and should be open and accessible to inspection by the public.

https://ndusbpos.sharepoint.com/:w:/s/NDUSPoliciesandProcedures/ERN5rKu-ibhPj-FAtM_KJq0B0HTSeSMY2enLVX3S_rilKA?e=yj9LVh

Admissions applications to institutions of higher education - Confidential.

1. A record related to an individual's application for admission to an institution of higher education under the administration of the state board of higher education is confidential, except as otherwise provided by law.
2. The record, including a record that has been disclosed under this chapter, must be destroyed upon request of the applicant or the parent or guardian of an applicant who was under eighteen years of age at the time the application was submitted.
3. An individual may not possess a record that is confidential under this section for a reason other than carrying out regular duties as an employee of an institution of higher education.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

<https://ndlegis.gov/assembly/69-2025/regular/documents/25-0951-03000.pdf>

First Sentence

The first sentence is meant to ensure that an applicant's information is confidential by making it exempt. Any member of the public can request the application records of anyone. This could be abused, for example, for the purpose of researching whether there's anything embarrassing in these records.

Second Sentence

The second sentence is meant to allow applicants to ensure their information is protected by requesting the destruction of their application. There are applicants whose records have already been disclosed without authorization from the applicant, which this language addresses.

Once an applicant has been admitted or denied, there's no longer need for the application. That's why schools destroy the application after a period of time. Under this bill, those retention periods will remain in place. Few students will even be aware of this option. But this bill simply provides an option for students who want to protect their privacy a way to do so.

Suppose an applicant includes information related to the application, such as a personal statement where the student might discuss embarrassing aspects of their history, such as being raped or a victim of a crime, or discrimination, or financial loss. Another consideration would be if an applicant died, then there's no need for a school to keep their application.

This bill is especially necessary in an age of technology and cybersecurity where hacking frequently occurs. Anybody can ultimately hack into a university system and steal records. Imagine a person applied to NDSU and was denied, but later entered a promising career in law enforcement, the military, diplomacy, or intelligence services. Now suppose a foreign hacker got access to his application where he revealed very personal information in his application. Then that person would no longer be as effective in their role.

The applicant is ultimately responsible for any adverse effects of a request to destroy their application records. But it's more important that people have a right to control their personal information, than that schools keep this information against the applicant's wishes.

Third Sentence

This ensures that no local or state official can access or re-disclose information that they did not need in the first place. Under current law, any local and state official can obtain applicant records from state schools through a records request for any reason, through chapter 44-04. If an official wanted all the admissions records from NDSU this year, then NDSU would be required to hand over all such records, regardless of reason, even if the official had no business with such records. An official who obtained an application through an open record disclosure could keep such records indefinitely, even if the original school already destroyed such records. Therefore, the third sentence would require that such officials destroy their records that they have no business keeping.

Thank you kindly for your consideration.

Jared Hendrix
State House – District 10

HOUSE BILL NO. 1542

Introduced by

Representatives Hendrix, Heilman, Heinert, Marschall, Murphy, Novak, Schreiber-Beck
Senators Cory, Wobbema

- 1 A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota
2 Century Code, relating to the confidentiality exemption of student applications for admission to
an
3 institution of higher education; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 5 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is created
6 and enacted as follows:

- 7 **Admissions applications to institutions of higher education – Confidential Exempt.**
8 A record related to an individual's application for admission to an institution of higher
9 education under the administration of the state board of higher education is confidential exempt
under chapter 44-04-18, except as otherwise provided by law. Subject to the one-year retention
requirement under 15-10-44 (1)(c), the ~~The~~ record, including a record that has been disclosed
under this chapter, must be destroyed upon request of the applicant or the parent or guardian of
an applicant who was under eighteen years of age at the time the application was submitted. An
individual may not possess access or re-disclose a record that is confidential exempt under this
section for a reason other than carrying out regular duties as an employee of an institution of
higher education.

- 10 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.