

2015 SENATE EDUCATION

SB 2360

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SB 2360
2/4/2015
Job # 23165 (43:12)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

INITIAL HEARING

relating to the disclosure of directory information by institutions of higher education

Minutes:

2 attachments

Chairman Flakoll called the committee to order at 9:00am with all committee members present.

Mac Schneider, District 42 Senator (*see attachment #1*)

Senator Schaible: Can't the university system do that already?

Senator Schneider: They certainly can, but they have not. They have an opt out process rather than an opt in. This would require a change in policy on the part of the state board. It's a good change of policy. If you look at the way things are going on the internet, virtually no one goes without doubt anymore when it comes to email marketing or whatever else, it is always opt in to protect privacy. Our state board should do the same.

Senator Schaible: I am not disagreeing with that, but I do not understand why we don't just suggest to the state board of Higher Ed. that they change their policy to do that.

Senator Schaible: suggesting is good, mandating is sometimes better. Thus far the state board has not changed their policy and that is why we are advocating for a change in the law.

(4:40) **Senator Marcellais:** Is this going to cover distance learning students also?

Senator Schneider: This doesn't make a distinction between distance learning and on campus students, so I believe it would. It would apply to all students.

Vice Chairman Rust: How would it work with students who have attended some place in the past?

Senator Schneider: I don't think that would make a difference. Once a student enrolls, they would be subject to this opt in procedure. That shouldn't be different whether they are coming straight from high school or from MSUM.

Vice Chairman Rust: I'm talking about people who may have attended an institution years ago, and someone requests information that may be directory information. How does that apply to them?

Senator Schneider: Line 17 page 1 states that "an institution may disclose directory information about a former student unless the former student has electronically prohibited the disclosure". That essentially leaves the opt out regime in place for former students.

Chairman Flakoll: How would a former student know? How does the integrity of the system work so that they can get in once they are no longer a student?

Senator Schneider: I will defer that question to the members of the state board who implement this policy. Most students don't even know they have this option. In fact they probably don't even know what directory information is.

Chairman Flakoll: How does it work with faculty members when they need student information? There are different proposals in privacy.

Senator Schneider: There are exceptions in this bill starting on page 1 line 19. Perhaps there is a way to widen that and say that this directory information is available to those within the University or to faculty. That is why this is more difficult in application than the simple concept would indicate. Certainly you want faculty members and the deans to communicate with the student body. What we are trying to prevent here are spammers and those who want to use email addresses on a mass basis to communicate with student in an unwanted way. There is some work to be done potentially so people who need this information to conduct the business of facilitating higher education have it and that those who seek to use it improperly or for the purposes of spam don't have access to that information.

Chairman Flakoll: On bottom of page 1 lines 22-24, what is the genesis of this?

Senator Schneider: This is probably an unnecessary abundance of caution that was put in by legislative council. I don't think this legislation deals with a name badge. It is benign but perhaps unnecessary. This was legislative council's decision to include this.

Chairman Flakoll: By "display publicly", that doesn't mean they can't ask them to show their ID, does it?

Senator Schneider: Those were the kind of ridiculous scenarios I think the council was trying to prevent. This legislation has nothing to do with name badges. I believe those lines were trying to underscore that.

Vice Chairman Rust: Would it have to do with individual students who refuse to wear badges?

Senator Schneider: That is correct. I believe colleges with or without this bill currently has authority to do that.

-Opposition

(12:05) **Jack McDonald**, ND Newspaper Association

McDonald: I'm here for advertisers and people who may want to reach these students. This will prevent the Bank of North Dakota for instance from notifying students about new deals and student loan rates. Why is there such a rush to protect these students from the simple advertising that everyone gets? Perhaps it can be annoying at times, but it is a part of commercial life. I represent newspapers and radio and television stations. We are against this bill.

Chairman Flakoll: They would only not get it if they choose not to get it.

McDonald: For this bill, you would have to opt in. Most students don't do anything, so most wouldn't get it.

Chairman Flakoll: Is that like saying that you don't get discount ads in the Bismarck Tribune unless you buy the newspaper?

McDonald: That's true.

Chairman Flakoll: The argument that they won't get the advertising goes with Senator Schneider's point. Most students I know don't appreciate the spam.

McDonald: We're not just talking about spam. Even the Bank of North Dakota would have a difficult time contacting them with important information. Maybe one of the downtown stores wants to give students deals.

Chairman Flakoll: We could amend it to say "except for state agencies" so they could have access to it. You would then support it?

McDonald: That would help somewhat, but I'm not here speaking for the Bank of North Dakota I just use that as an example I am thinking for advertisers and those who want to do business in North Dakota. Students are good for marketing.

Chairman Flakoll: They market to them in a variety in ways. This will only prohibit them from sending the students emails. They can still watch TV and read the newspaper, correct?

McDonald: Correct, but they can't get anything directly through mail.

Senator Oban: Wouldn't they still be able to send anything they want via mail addressed to "the occupant" of a particular address? It just wouldn't be addressed to their name.

McDonald: That would only be true for the college dorms, and I'm sure less than half or one quarter of students live in dorms.

Chairman Flakoll: I would assume the newspaper association would like that advertisers don't have this option. It would force them to advertise in the newspapers as opposed to online.

McDonald: Newspapers are always thinking of other people first.

(19) **Murray Sagsveen**, Chief of Staff for the Chancellor in the North Dakota University System Office (*see attachment #2*)

Sagsveen: We have people with expertise on this issue. The general council both at UND and NDSU work with these issues every day and if you would like we could get them here to testify.

Vice Chairman Rust: Do all of the institutions of higher education place on their website statements about personal record or directory information?

Sagsveen: I'm not sure about the individual institutions, but on the state board of higher education website, we have all of the policies and procedures listed. During the registration process some of this information is provided to the students. If a student wants to find that information it is available. I'm not sure if it is thrown at them or if they have to look for it a bit.

Chairman Flakoll: What do you mean by directory information?

Sagsveen: The last page of my testimony explains that.

Chairman Flakoll: Is it whole or in part? Do you have the provision that they can opt out on some but not others?

Sagsveen: I believe it is an all or nothing situation, but I will have to verify that.

Chairman Flakoll: Sometimes they have a preexisting business relationship. This has nothing to do with that, correct?

Sagsveen: Correct. Most students have two email addresses and whenever they enroll, they have an institution email account such as an "@nds.edu".

Chairman Flakoll: Isn't number 18 under the policy, "the photographic video" in the public domain?

Sagsveen: That is to do with the photograph that is taken and is on their ID card.

Chairman Flakoll: Do some of these things listed come off of there after a while?

Sagsveen: I think they maintain this information only for a very specific period of time. I would like to defer these questions for clarification.

Chairman Flakoll: On page lines 22-24, I am still confused by the badge concept.

Sagsveen: I don't know what this is for either.

Senator Marcellais: What about the Freedom of Information Act? How does that intertwine with the students?

Sagsveen: the North Dakota open records law?

Senator Marcellais: I mean the federal law. Any time we want to do something for a constituent we have to get a release form to do that, otherwise the federal or state government won't do anything for us.

Sagsveen: Student records are governed by FERPA. I don't know if the freedom of information act is involved in this.

Chairman Flakoll: Are there still pending changes being discussed by the board?

Sagsveen: In October the board of higher education received open records request for all of the students' email addresses for the purpose of measure 7. That developed into a controversy. We provided all of the 43,000 student email addresses and the students then received at least two sets of political campaign issues. That started generating a discussion with the staff and the board of higher education about relooking at policy 1912 and the implementing procedure. We are now reviewing this in light of SB 2133 and this bill. I am confident that the board will update both the policy and procedure.

Chairman Flakoll: Say a student who went to a 4 year institution realizes it's not the right fit and decides to transfer to a 2 year. Could the 4 year institution provide information to the 2 year campuses? Would this bill as it is currently written prohibit that practice?

Sagsveen: Under the current practice and under this bill, that would not be diminished at all. The information in the system flows back and forth.

Chairman Flakoll: How about to the Bank of North Dakota as was previously discussed?

Sagsveen: If a student opts out or under the bill fails to opt in, the information may not be available for the bank.

(35:25) **Aaron Weber,** NDSU student government

Chairman Flakoll: How do students feel about the advertising emails?

Weber: We receive "listserve" emails. Organizations at NDSU forward emails to student government who in turn puts it on the listserve connecting to every student at NDSU. This

is the number one complaint we receive at student government. They feel they are being spammed and many of the emails don't pertain to them.

Chairman Flakoll: There are two ways you can do a listserve on your campus, one through faculty and one through student government correct?

Weber: I believe there are 4 distinct listserves. There is one for research studies, one for student government announcements, one for the faculty and staff, and then one for the student official administration.

Chairman Flakoll: The faculty has discretion on whether they want those emails. Does student government have the discretion to not send out emails?

Weber: We have two public relations commissioners. They are the gatekeepers of the student listserve. Any organization that wants to send out a listserve has to meet criteria. There are different regulations and you need to be involved at some capacity within NDSU.

Chairman Flakoll: so businesses would be better off advertising in their local newspaper?

Weber: Yes, social media as well. We don't enjoy all of the emails.

Senator Marcellais: Can the ITD department block these listserves?

Weber: You have the option as a student to remove yourself from these listserves, but I don't know about the IT department. When you are issued your NDSU email, you are informed that this is your official communication vehicle with the University.

Chairman Flakoll: That includes weather alerts?

Weber: Correct.

Senator Davison: When presidents talk they talk as if the institutions are similar to a big family. Being a part of the family and their communication, it is important to take some time to recognize and if necessary delete those emails. Some of those messages are important to some and it may not always be relevant to one individual, but that is part of life.

Weber: We do not have a position on this bill. However the emails that are directly related to the university activities are understandable. It is a part of campus. Outside advertisers are different.

To address the name tag confusion, any ID or name tag at NDSU usually has simply your name, the name of our University and a position if applicable. I am not aware of any name tag that I've seen at NDSU that would disclose anything other than your name.

Vice Chairman Rust: How many students would choose would opt in?

Weber: It depends how it is implemented by the University I would assume. Without any warning from the system office, it wouldn't be a lot because of the lack of knowledge. It would be the minority.

Chairman Flakoll ends the hearing on SB 2360.

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SB 2360
2/17/2015
Job # 23954 (4:50)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE WORK

Minutes:

1 attachment

Chairman Flakoll called the committee to order at 9:00am with all committee members present.

(see attachment #1)

Chairman Flakoll: We will not take these amendments up this morning, but I would like you to look them over and see how they fit within the bill. I showed these amendments which would reflect the 1001 amendments for this bill to Senator Schneider so he is aware of them. I also visited with a student representative about this so they are generally aware of them. We will try to talk about this this afternoon.

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SB 2360
2/18/2015
Job #24088 (5:17)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

COMMITTEE ACTION

Minutes:

1 Attachment

(see attachment #1)

Senator Schaible moves for the adoption of the 15.1022.01001 amendments.

Senator Oban seconds the motion.

A vote was taken: Yes: 6, No: 0, Absent: 0

The amendments are adopted.

Chairman Flakoll: this is pretty close to a hog house amendment.

Senator Oban motions for a DO PASS as amended.

Senator Marcellais seconds the motion.

A vote was taken: Yes: 4, No: 2, Absent: 0

Senator Schaible and Senator Davison opposed but the motion carries 4-2.

Vice Chairman Rust will carry the bill.

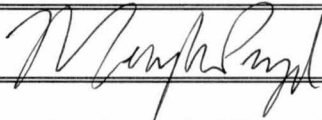
2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

SB 2360
2/20/2015
Job #24194 (3:29)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

COMMITTEE ACTION

Minutes:

No attachments

Chairman Flakoll called the committee to order at 8:00am with all committee members present.

Vice Chairman Rust motions for a reconsider vote on SB 2360.

Senator Schaible seconds the motion.

A vote was taken: Yes: 4, No: 2, Absent: 0

Senator Oban and Senator Marcellais are opposed but the motion carries 4:2.

Senator Schaible moves for a without committee recommendation as amended

Senator Davison seconds the motion.

A vote was taken: Yes: 4, No: 2, Absent: 0

Senator Oban and Senator Marcellais are opposed but the motion carries 4:2.

Chairman Flakoll will carry the bill.

February 16, 2015

TD
2/16/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2360

Page 1, line 9, remove "only if the"

Page 1, remove lines 10 through 24

Page 2, replace lines 1 and 2 with ":

- a. Internally; and
- b. To any state or federal governmental agency.
- 2. a. An institution of higher education under the control of the state board of higher education may disclose directory information to persons or entities other than those listed in subsection 1, only if a student has electronically authorized the disclosure.
- b. A student may provide authorization for disclosure under this subsection at any time.
- c. An institution may seek authorization for disclosure under this subsection by providing an electronic prompt to students, at least once each academic year."

Renumber accordingly

**2015 SENATE EDUCATION COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2360**

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: 15.1022.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Schaible Seconded By Senator Oban

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	X		Senator Marcellais	X	
Vice Chairman Rust	X		Senator Oban	X	
Senator Davison	X				
Senator Schaible	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2015 SENATE EDUCATION COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2360**

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Oban Seconded By Senator Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	X		Senator Marcellais	X	
Vice Chairman Rust	X		Senator Oban	X	
Senator Davison		X			
Senator Schaible		X			

Total (Yes) 4 No 2

Absent 0

Floor Assignment Vice Chairman Rust

If the vote is on an amendment, briefly indicate intent:

**2015 SENATE EDUCATION COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2360**

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ _____

Motion Made By Vice Chairman Rust Seconded By Senator Schaible

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	X		Senator Marcellais		X
Vice Chairman Rust	X		Senator Oban		X
Senator Davison	X				
Senator Schaible	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2015 SENATE EDUCATION COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2360**

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☒ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Schaible Seconded By Senator Davison

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	X		Senator Marcellais		X
Vice Chairman Rust	X		Senator Oban		X
Senator Davison	X				
Senator Schaible	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Chairman Flakoll

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2360: Education Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2360 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "only if the"

Page 1, remove lines 10 through 24

Page 2, replace lines 1 and 2 with ":

- a. Internally; and
- b. To any state or federal governmental agency.
- 2. a. An institution of higher education under the control of the state board of higher education may disclose directory information to persons or entities other than those listed in subsection 1, only if a student has electronically authorized the disclosure.
- b. A student may provide authorization for disclosure under this subsection at any time.
- c. An institution may seek authorization for disclosure under this subsection by providing an electronic prompt to students, at least once each academic year."

Renumber accordingly

2015 TESTIMONY

SB 2360

#1
2/4/15

TESTIMONY OF SENATOR MAC SCHNEIDER (DISTRICT 42 - GRAND FORKS)

SENATE BILL 2360

SENATE EDUCATION COMMITTEE - FEBRUARY 4, 2015

Mr. Chairman and members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I am the prime sponsor of SB 2360.

SB 2360 is simple in concept, but admittedly more complex in application. Starting with the basic principle of the legislation, the bill seeks to prohibit disclosure of a higher education student's "directory information" absent the student's affirmative consent.

In other words, this bill would require a student to "opt in" before directory information could be disclosed by an institution.

Present State Board of Higher Education (SBHE) policy is to allow a student to "opt out" by "restrict[ing] release of any or all of the directory information by logging into the student's account." From my conversations with SBHE staff, very few students restrict this information. Some of those who do have serious reasons for doing so, such as stalking or other personal safety concerns.

It seems indisputable that inertia plays a big role in whether student directory information remains public or private. SB 2360 aims to have inertia work in favor of protecting student privacy. If a student wants their information – including their email address – to be public, they can choose to make it so. If they make no choice, their information will be private.

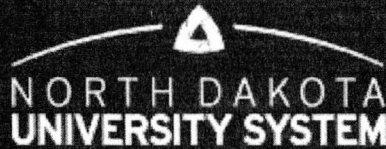
An issue that arose in drafting this legislation was whether the federal Family Educational Rights and Privacy Act (FERPA) would "pre-empt" a state law that requires a student to opt in to public disclosure of directory information. While FERPA is a bramble bush of a statute, I have been unable to come up with a valid argument that it would prohibit what this bill seeks to accomplish.

SBHE policy itself notes that FERPA gives students "the right to request directory information not be made public[.]" It does not prohibit an institution from adopting an opt in approach to disclosure of student directory information. In other words,

FERPA sets the floor with regard to directory information. It does not prevent states from constructing a higher ceiling.

I also understand the SBHE has advanced legislation to exempt certain student information from open record requests. I support that effort to protect student privacy and see this legislation as complementary.

I do not want to discount the fact that this bill would require a change of policy on the part of the SBHE and possibly some technological reconfiguration. However, I believe that is a small price to pay to protect the privacy of the tens of thousands of students benefitting from educational opportunities at our institutions of higher education. I would be happy to try to answer any questions.



ACCESS. INNOVATION. EXCELLENCE.

Policies and Procedures

NDUS Procedures

[<< return](#)**SUBJECT:** 1900s: Miscellaneous**EFFECTIVE:** July 1, 2004**Section:** 1912.2 Student Records - Directory Information

SBHE Policy 1912 requires that each institution adopt a policy as required by the Family Educational Rights and Privacy Act (FERPA). Such policies must include a definition of "directory information." Directory information, which may be released publicly in printed, electronic, or other forms, shall be defined to include:

1. Name (all names on record)
2. Address (all addresses on record)
3. E-mail address (all electronic addresses on record)
4. Phone number (all phone numbers on record)
5. Height, weight and photos of athletic team members
6. Date of birth
7. Place of birth
8. Major field of study (all declared majors)
9. Minor field of study (all declared minors)
10. Class level
11. Dates of attendance
12. Enrollment status
13. Names of previous institutions attended
14. Participation in officially recognized activities and sports
15. Honors/awards received
16. Degree earned (all degrees earned)
17. Date degree earned (dates of all degrees earned)
18. Photographic, video or electronic images of students taken and maintained by the institution.

Under the Family Educational Rights and Privacy Act, students have the right to request directory information not be made public by notifying the appropriate campus office. Student information systems permit students to restrict release of any or all of the directory information by logging into the student's account. Students should be aware that information might be collected for use in publications in advance of printing. In order to effectively suppress release of directory information, students must restrict their directory information by the tenth day of the term and not reverse that restriction during the term. Students may also personally contact a staff member in the appropriate campus office for assistance in completing this process.

Campuses receive many inquiries for 'directory information' from a variety of sources including, but not limited to, prospective employers, other colleges and universities, graduate schools, licensing agencies, government agencies, news media, parents, friends, and relatives. Students should consider very carefully the consequences of their decision to withhold release of any or all directory information items. Campuses have no

responsibility to contact students for subsequent permission to release directory information after it is restricted. Campuses will honor student requests to withhold directory information until the student specifically and officially requests to lift these restrictions. Students may reverse existing directory restrictions by logging into their accounts. Students may also personally contact a staff member in the appropriate campus office.

Reference: SBHE Policy - 1912

History:

Chancellor's Cabinet Meeting, April 14, 2004. Revisions were made and the revised procedure was distributed via email to cabinet on May 15, 2004, with a message stating that without objection from the presidents at or before the May 19, 2004, cabinet meeting, the interim chancellor would approve the revised version.

[[Back to website](#)]

4/4

#2
2/4/15

**Senate Education Committee
Testimony on Senate Bill 2360
February 4, 2015**

I am Murray Sagsveen, Chief of Staff for the Chancellor in the North Dakota University System Office. I am appearing to provide information to this committee about Senate Bill 2360.

This is a complex issue - the Family Educational Rights and Privacy Act (FERPA) restricts the disclosure of student information whereas the state open records law generally promotes the disclosure of information.

A summary of FERPA is enclosed. Concerning directory information, schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them (i.e., students may "opt out").

The State Board of Higher Education has adopted Policy 1912 and the Chancellor has adopted Procedure 1912.2 to address the disclosure of student records (both are enclosed).

It is my understanding that very few students at the University System institutions "opt out." At NDSU, only a dozen or so students opt out each year – for personal reasons such as avoiding a stalker.

When opting out at NDSU, the student must sign the enclosed form. This form cautions:

While suppression of directory information may seem desirable, it may have unintended and/or undesirable consequences. These include, but are not limited to: student names not being published in student directories or lists of student honors or awards (i.e. Dean's Lists); not having name/information released to scholarship/honor societies; not having enrollment or degree information verified to employers, insurance companies, graduate schools, etc.; and not having information released to any third party for any reason.

This bill would change the current "opt out" system to an "opt in" system, which would require the University System to suppress student directory information unless the student opts in.

The language at lines 1-2 on page 2 of the bill also has implications for the open records law.

1/10

The State Board of Higher Education supports efforts to protect personal information about students. In December, the Board pre-filed Senate Bill 2133, which defines directory information that may be disclosed under the North Dakota open records law. Accordingly, we would like additional time to work with the sponsors of this bill to possibly address their concerns in board policy or craft amendments that would accomplish the intended goal within the framework of FERPA and the state open records law.

Request to Suppress Directory Information North Dakota State University

The Family Educational Rights and Privacy Act (FERPA, 1974) provides students the basic right to request, in writing, that directory information not be made public

By law, directory information generally is not considered invasive or sensitive. Therefore, NDSU may release student directory information to anyone requesting it. However, students have the opportunity to suppress, or restrict, this information from public release. Please note that this information can only be suppressed from the public, not from University officials or authorized agents of the University, including students' assigned faculty or advisors, with a legitimate educational interest. Also, such directory information may be available to instructors and students in a class via the Blackboard learning management system regardless of a suppression request.

IMPORTANT: While suppression of directory information may seem desirable, it may have unintended and/or undesirable consequences. These include, but are not limited to: student names not being published in student directories or lists of student honors or awards (i.e. Dean's Lists); not having name/information released to scholarship/honor societies; not having enrollment or degree information verified to employers, insurance companies, graduate schools, etc.; and not having information released to any third party for any reason.

Note: Student information in some printed directories or lists may have been released or printed PRIOR to the date of suppression.

Students must be enrolled at NDSU to file a suppression of directory information. Suppression requests will remain in effect, even after enrollment ceases, until revoked in writing by the student.

If you have questions regarding the implications of this form, please contact Rhonda Kitch at Rhonda.K.Kitch@ndsu.edu.

- ☐ **Suppress Directory Information** - I have carefully read the above information, and request that my directory information be suppressed.
- ☐ **Revoke Suppression** - I request that my suppression of directory information be removed.

Please Print Legibly:

Student Legal Name _____
First MI Last

Student ID _____ Date of Birth _____

Signature _____ Date _____

Submit to NDSU Office of Registration and Records:

110 Ceres Hall • P.O. Box 6050, Fargo, ND 58108 • 701.231.7981 (Fax) • 701.231.8959

For Office Use Only:

Date Received in Registration/Records _____ Date Entered in Campus Connection _____
Processed by (initial) _____ 8/2014

3/10

[Print](#)[Close
Window](#)

Family Educational Rights and Privacy Act (FERPA)

[Family Policy Compliance Office \(FPCO\) Home](#)

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information, you may call 1-800-USA-LEARN (1-800-872-5327) (voice). Individuals who use TDD may use the Federal Relay Service.

Or you may contact us at the following address:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-8520

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Last Modified: 06/02/2014



Policies and Procedures

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SUBJECT: 1900s: Miscellaneous

EFFECTIVE: November 20, 2014

Section: 1912 Public Records

Except as otherwise specifically provided by law or this policy, all records of the State Board of Higher Education, the North Dakota University System and its institutions are, pursuant to N.D.C.C. Section 44-04-18, public records, open and accessible for inspection during regular office hours.

1. Student education records are confidential and access to those records is restricted according to the Family Education Rights and Privacy Act of 1974, as amended (FERPA). Pursuant to FERPA, each institution shall:
 - a. Adopt a policy as required by 34 CFR Section 99.7;
 - b. Annually notify students currently in attendance of their rights under FERPA;
 - c. Except as provided under FERPA and 34 CFR Section 99.31, relating to conditions under which personally identifiable information may be disclosed without consent, obtain a signed and dated written consent of a student before it discloses personally identifiable information from the student's education records;
 - d. Maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student as required by 34 CFR Section 99.32;
 - e. Provide the notice required by 34 CFR Section 99.37 concerning disclosure of directory information;
 - f. Adopt procedures implementing FERPA provisions governing release and transfer of student disciplinary records. Consistent with FERPA, student disciplinary records are confidential and may be released only as permitted under FERPA and implementing institution procedures; and
 - g. Comply with all other requirements of FERPA and applicable regulations

The chancellor shall adopt a procedure establishing a uniform, system definition of directory information, which must be incorporated in required institution policies and apply to the system office.

2. Records of former students, including deceased former students, are confidential except that records of deceased former students may be released or disclosed at the request of a parent, personal representative, or other qualified representative of the student's estate, or pursuant to a court order or subpoena.
3. Access to and disclosure of campus police records is governed by N.D.C.C. Section 44-04-18.7. Accordingly, active criminal intelligence information and active criminal investigative information are exempt from the open records law. Each campus law enforcement agency shall maintain a list of all files containing active criminal intelligence and investigative information which have been in existence for more than one year, which shall be subject to disclosure under N.D.C.C. Section 44-04-18.
 - a. Campus police records which are open and must be disclosed under Section 44-04-18.7 include:
 - i. Arrestee description;
 - ii. Facts concerning the arrest;
 - iii. Conviction information;
 - iv. Disposition of all warrants;
 - v. A chronological list of incidents, including initial offense report information;
 - vi. A crime summary, including a departmental summary of crimes reported and public calls for service;
 - vii. Radio log; and
 - viii. General registers.
 - b. Law enforcement records and files concerning a child, as that term is defined at N.D.C.C. ch. 27-20, shall be kept separate from the records and files of adults and shall not be open to public inspection and may not be disclosed except according to the provisions of N.D.C.C. ch. 27-20.
 - c. Records of undercover law enforcement officers are confidential and exempt from the open records law as provided by N.D.C.C. Section 44-04-18.3.
4. Personnel records other than personnel records that relate to an individual in attendance at the agency or institution and employed as a result of his or her status as a student are public records open to inspection by the public. However, pursuant to N.D.C.C. Section 44-04-18.1, employee medical and employee assistance program records are confidential and may not be placed in an employee's personnel file and may not be released without the written consent of the employee or as otherwise provided by law. Further, personal information as defined in section 44-04-18.1, including a person's home address, home telephone number, photograph, medical information, motor vehicle operator's identification number, payroll deduction information, the name, address, phone number, date of birth of any dependent or emergency contact, any credit, debit, or electronic fund transfer

card number, and any account number at a bank or other financial institution, are exempt from the open records law and may be released only as required by law, pursuant to institution policy or with the employee's written consent. The chancellor shall adopt a procedure establishing a uniform, system policy concerning release of exempt personal information, which must be incorporated in required institution procedures and apply to the system office. Placement of documents in an employee's personnel file is governed by N.D.C.C. Section 54-06-21.

5. Additional records exempt from or confidential under the open records law include (without limitation):
 - a. Information pertaining to an employee's retirement account balance, disability applications and benefits, and surviving spouse applications and benefits under N.D.C.C. ch. 54-52 or a plan adopted by the board (N.D.C.C. Section 54-52-26);
 - b. Certain economic development records (N.D.C.C. Section 44-04-18.2);
 - c. Trade secret, proprietary, commercial and financial information (N.D.C.C. Section 44-04-18.4 and SBHE Policy 611.6);
 - d. Computer software programs or components for which a copyright, patent or license is acquired (N.D.C.C. Section 44-04-18.5);
 - e. Attorney work product (N.D.C.C. Section 44-04-19.1); and
 - f. Social security numbers, which are confidential under N.D.C.C. Section 44-04-28.
6. Copies of records not exempt from section 44-04-18 shall be provided upon request. Copies shall be made of records and documents in the form filed or kept in the normal course of business and employees are not required to retrieve and collate or summarize data or prepare other special reports or documents not required by law or otherwise prepared in the normal course of business. A fee for allowing access to documents may not be assessed; however, each institution shall establish and collect a fee to cover reasonable copying costs, including reasonable costs of computer generated documents. The fee for standard paper copies may not exceed twenty-five cents per copy as provided under section 44-04-18. A fee not to exceed twenty-five dollars per hour, excluding the first hour, may be charged per request for locating records if locating the records requires more than one hour or for excising confidential or closed material if excising the material requires more than one hour. Access to electronically stored records is free if the records are recoverable without the use of a computer backup; if a request is made for access to a record on a backup or for a copy of an electronically stored record, an additional reasonable fee may be charged to cover costs attributable to the use of information technology resources.
7. The university system office and each institution shall maintain a continuing program for the management of records as required by N.D.C.C. ch. 54-46 using the North Dakota Colleges/Universities General Records Retention Schedule maintained and updated by the ND Information Technology Department and as supplemented by institution specific retention schedules maintained by individual institutions. Records received or created by Board members are governed by the system office program.
8. The chancellor shall adopt a procedure implementing provisions of the Financial Services Modernization Act of 1999 (Gramm Leach Bliley Act).



Policies and Procedures

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SUBJECT: 1900s: Miscellaneous

EFFECTIVE: July 1, 2004

Section: 1912.2 Student Records - Directory Information

SBHE Policy 1912 requires that each institution adopt a policy as required by the Family Educational Rights and Privacy Act (FERPA). Such policies must include a definition of "directory information." Directory information, which may be released publicly in printed, electronic, or other forms, shall be defined to include:

1. Name (all names on record)
2. Address (all addresses on record)
3. E-mail address (all electronic addresses on record)
4. Phone number (all phone numbers on record)
5. Height, weight and photos of athletic team members
6. Date of birth
7. Place of birth
8. Major field of study (all declared majors)
9. Minor field of study (all declared minors)
10. Class level
11. Dates of attendance
12. Enrollment status
13. Names of previous institutions attended
14. Participation in officially recognized activities and sports
15. Honors/awards received
16. Degree earned (all degrees earned)
17. Date degree earned (dates of all degrees earned)
18. Photographic, video or electronic images of students taken and maintained by the institution.

Under the Family Educational Rights and Privacy Act, students have the right to request directory information not be made public by notifying the appropriate campus office. Student information systems permit students to restrict release of any or all of the directory information by logging into the student's account. Students should be aware that information might be collected for use in publications in advance of printing. In order to effectively suppress release of directory information, students must restrict their directory information by the tenth day of the term and not reverse that restriction during the term. Students may also personally contact a staff member in the appropriate campus office for assistance in completing this process.

Campuses receive many inquiries for 'directory information' from a variety of sources including, but not limited to, prospective employers, other colleges and universities, graduate schools, licensing agencies, government agencies, news media, parents, friends, and relatives. Students should consider very carefully the consequences of their decision to withhold release of any or all directory information items. Campuses have no responsibility to contact students for subsequent permission to release directory information after it is restricted. Campuses will honor student requests to withhold directory information until the student specifically and officially requests to lift these restrictions. Students may reverse existing directory restrictions by logging into their accounts. Students may also personally contact a staff member in the appropriate campus office.

Reference: SBHE Policy - 1912

History:

Chancellor's Cabinet Meeting, April 14, 2004. Revisions were made and the revised procedure was distributed via email to cabinet on May 15, 2004, with a message stating that without objection from the presidents at or before the May 19, 2004, cabinet meeting, the interim chancellor would approve the revised version.

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February 16, 2015

#1
2/17/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2360

Page 1, line 9, remove "only if the"

Page 1, remove lines 10 through 24

Page 2, replace lines 1 and 2 with ":

- a. Internally; and
- b. To any state or federal governmental agency.
- 2. a. An institution of higher education under the control of the state board of higher education may disclose directory information to persons or entities other than those listed in subsection 1, only if a student has electronically authorized the disclosure.
- b. A student may provide authorization for disclosure under this subsection at any time.
- c. An institution may seek authorization for disclosure under this subsection by providing an electronic prompt to students, at least once each academic year."

Renumber accordingly

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