

# Public Records Requests

Policy 105.6

## 1 Introduction

1.1 Appalachian 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 information requests from the public and the news media. Appalachian State University (hereinafter referred to as the "University") is committed to a policy of openness, honesty and cooperation with members of the public and the news media. This policy will be implemented in accordance with the [North Carolina Public Records Act, N.C.G.S. Chapter 132](#), and other applicable state and federal laws.

1.2 Compilation of records that have been requested for disclosure requires the expenditure of resources. This policy, consistent with North Carolina law, permits the University to fairly recover the non-appropriated cost of responding to public records requests.

## 2 Scope

2.1 This policy applies 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.

## 3 Definitions

### 3.1 Custodian

means the person in charge of an office having public records.

### 3.2 Public record, public records, and public information

means all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, electronic mail (e-mail), artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by the University.

## 4 Policy and Procedure Statements

### 4.1 Public Records Requests and Release of Information

4.1.1 [University Communications](#) is the principal liaison for all public records requests. University Communications is delegated authority to determine whether the request is a request for information or a request for public records.

4.1.2 In order to facilitate an accurate and timely response by the University, all requests for public records shall be submitted in writing through the [University's web portal](#) established for that purpose. Any requestor who is not able to submit the request in writing through the web portal may contact University Communications for assistance. An employee who receives a public records request directly should direct the requestor to the web portal and/or forward the written request to University Communications.

4.1.3 University Communications will collaborate with IT Support Services and the Office of General Counsel, as necessary, to identify, collect, and review relevant records prior to releasing public records.

4.1.4 Record custodians must cooperate with University Communications, IT Support Services, and/or the Office of General Counsel to assist the University in fulfilling its obligations under the North Carolina Public Records Act.

4.1.5 Certain information is confidential under state or federal law and not subject to disclosure. University Communications will separate out or redact any confidential information from otherwise accessible public records prior to inspection and/or distribution of requested records. University Communications will confer with the Office of General Counsel regarding the confidentiality of records or portions of records prior to 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.

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 that it not be released ("privacy block"). Appalachian's definition of directory information is set forth in the University's Policy Statement on the Family Educational Rights and Privacy Act of 1974, as Amended. Before releasing directory information about any student, the employee receiving the request must consult with the University Registrar to determine whether a student has placed a privacy block on the student's directory information. FERPA provides other exceptions for disclosure, including disclosure with the written consent of the student.
3. Library user records – [State law 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 contract or bid records prior to final award of the contract.
6. Attorney-client communications and trial preparation materials.
7. Certain criminal investigation and law enforcement records.
8. Emergency response plans, including, but not limited to, Appalachian's Emergency Operations Plan.
9. Minutes of closed sessions of public bodies.
10. Personal (non-work related) communications.

## 4.2 Copying Fees

4.2.1 If the requestor asks for copies of documents, the University may charge the actual costs of the copies. Generally, the University will not charge for the costs of paper copies unless the number of pages exceeds twenty-five (25) pages. Thereafter, the charge will be ten (10) cents per page for each page copied in black and white, and capable of reproduction in-house. If a request requires special handling (e.g., color copies, out-sourcing of the copying function, etc.), the actual cost of such handling shall be calculated and charged on a case-by-case basis.

4.2.2 If the requestor asks for documents in some other medium (e.g., disk or flash drive), the University may charge the actual cost of the media provided.

4.2.3 If the requestor requests transmission of the documents via email or other electronic means, the University will charge only for the special service charge described in 4.4, if applicable.

4.2.4 The person responding on behalf of the University shall provide an estimate of the copying cost to the requestor prior to making the copies, and allow the requestor the option of either agreeing to pay the charge or revising the request. Multiple requests within a short period of time (up to 90 days) from the same individual or organization will be considered a single request for purposes of determining whether to charge under this section.

## 4.3 Special Service Charge for Extraordinary Public Records Requests

4.3.1 If the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance, or if producing the records in the medium requested results in an 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. The University considers more than four (4) hours of labor to constitute extensive use of personnel.

4.3.2 If preparation of the response to the request exceeds four (4) hours of labor, the University will charge a presumed rate of \$18.00 per hour for the additional time. University Communications will provide an estimate of the costs for an extraordinary request prior to release of records and allow the requestor the option of either agreeing to pay the charge or revising the request to narrow its nature or scope. Upon receipt of the agreed service charge, University Communications shall promptly begin coordinating retrieval of requested records to the extent permitted by law. If the agreed upon estimate proves to be higher than the actual labor, delivery, materials and copying costs, the University shall thereafter reduce the charge to the requestor to the actual costs and promptly refund the difference to the requestor. If, during the document retrieval process, it becomes evident that the original estimate was too low, University Communications will suspend the process and ask the requestor whether the process should continue at a new and higher agreed estimated total cost or whether the process should cease, in which case the requestor will pay for and receive only the documents and/or information that have been retrieved to that point. Multiple requests within a short period of time (up to 90 days) from the same individual or organization will be considered a single request for purposes of determining whether to charge under this section.

4.3.3 The actual cost of redacting legally privileged and/or confidential information may not be included in calculating this special service charge. However, the time spent reviewing for and redacting privileged and/or confidential information should be

estimated and recorded as described in section 4.4.

## **4.4 Accounting For The Time Spent Handling Public Records Requests**

4.4.1 All employees assigned to respond to public records requests shall maintain a reasonable approximation of the time spent on that task to the nearest half hour. The approximation of time spent shall be maintained regardless of whether or not the employee's time is used to calculate a copying fee or service charge as described hereinabove.

## **4.5 Enforcement**

4.5.1 Any violation of this policy by employees may be considered "misconduct" under EHRA policies (Faculty and EHRA Non-faculty) and "unacceptable personal conduct" under SHRA policies. Employees alleged to have violated this policy shall be subject to such policies, including disciplinary actions and any appeal rights stated therein. Violations of law may also be referred for criminal or civil prosecution.

## **5 Additional References**

[Appalachian Policy 105.3 Policy Statement on the Family Educational Rights and Privacy Act of 1974, as Amended](#)  
[Appalachian Policy 302.3 Emergency Operations Plan](#)  
[Appalachian Policy 901 Use of Computers and Data Communications](#)  
[N.C.G.S. Chapter 8, article 7](#)  
[N.C.G.S. 125-19](#)  
[N.C.G.S. Chapter 126](#)  
[N.C.G.S. Chapter 132-1.6](#)  
[N.C.G.S. 143-52](#)  
[N.C.G.S. 143-215.3C](#)  
[N.C.G.S. 143-215.19](#)  
[20 U.S.C. 1232g](#)  
[534 CFR Part 99](#)

## **6 Authority**

[The UNC Policy Manual, \*The Code\*, Section 502](#)  
[N.C.G.S. Chapter 132](#)

## **7 Contact Information**

University Communications (828.262.6156)

## **8 Original Effective Date**

December 5, 2013

## **9 Revision Dates**

June 21, 2017  
July 18, 2018