

Disclosure of University Records in
Connection with the “Access to Public
Records” Act and in Response to Third-
Party Subpoenas

POLICY VI.4.1

Volume VI, Records
Chapter 4, University Records
Issuing Office: Office of the President
Responsible Officer: VP for BS and AT
Responsible Office: VP for BS and AT
Originally Issued: December 28, 1983
Most Recently Revised: January 8, 2004

Statement of Policy

Because Purdue University is a state institution, many of its files and records are public in nature. Files and records considered public in nature are subject to inspection and copying by members of the public. However, many University records are confidential in nature and are excepted from disclosure by Indiana statute. Records declared confidential by state statute or federal law are not subject to disclosure. This policy provides a centralized procedure for dealing with requests for access.

In addition, Purdue University and its employees are subject to the subpoena powers of state and federal courts. Through the issuance of subpoenas, third parties involved in claims and lawsuits often seek to obtain University records that they consider relevant to the issues involved in their claims or lawsuits, even when the University is not a party to the claims or lawsuits. These third-party subpoenas may present confidentiality issues or be objectionable for other valid reasons related to the files or records requested. This policy also provides a centralized procedure for dealing with subpoenas by third parties, in claims or lawsuits to which the University is not a party.

Reason for Policy

Because Purdue University is a state institution, it is subject to the Indiana Access to Public Records Act. This policy details the procedures for handling requests for access and subpoenas by third parties.

Who Should Know This Policy

President
Provost
Executive Vice President and Treasurer
Chancellors
Vice Chancellors
Vice Presidents

Deans
Directors/Department Heads/Chairs
Faculty
Business Office Staff
Administrative and Professional Staff
Clerical and Service Staff

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Related Documents

Indiana Access to Public Records Act. The text of the Act is available at the following URL: <http://www.in.gov/pac/statutes/>

Purdue’s Policy on HIPAA Compliance

University Policy VI.4.2: Assignment of Authority and Responsibility for the Retention and Disposal of University Records

Contacts

Public Records Officer (765) 494-9452/(765) 494-9706

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Definitions

Public Record A public record is broadly defined as any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and that is generated on paper, paper substitutes, photographic media, chemically-based media, magnetic or machine readable media, or any other material, regardless of form or characteristics.

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Public Records Officer	The individual responsible for reviewing all requests for access to records. The public records officer or his/her designated representatives will review each request, acting in the light of the complete state statute and the particular factual situation, with legal advice and assistance if deemed necessary.
Copy	A copy is defined as transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage and reproducing by any other means.
Inspect	Inspect is defined to include the right to do the following: <ol style="list-style-type: none">1. Manually transcribe and make notes, abstracts, or memoranda.2. In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.3. In the case of public records available a) by enhanced access or b) to a governmental entity to examine and copy the public records by use of an electronic device.4. In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

Exclusions

Procedures for responding to discovery requests in cases in which the University and/or University officials or employees are directly involved as parties are NOT within the scope of this policy. Discovery requests of this nature should continue to be conducted pursuant to consultation with the University’s counsel.

Procedures

General Scope of the Indiana Access to Public Records Act

The Indiana Access to Public Records Act is based on the philosophy that, in general, the public is entitled to access, inspect, and copy any public record. The Indiana Access to Public Records Act details general categories of public records that are expressly excepted from disclosure requirements. The Indiana Access to Public Records Act also details categories of records that may be excepted at the discretion of the public agency.

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The Access to Public Records law provides that a public agency may designate a particular person as being responsible for responding to requests for access to public records. The vice president for business services and assistant treasurer or his/her designee shall act as the Public Records Officer for Purdue University. He or she shall be responsible for responding to requests for access to public records and may assign other persons to assist in carrying out the responsibilities. He or she may act as the public records officer at campuses other than the West Lafayette Campus or may act in the absence or unavailability of such officer.

In response to requests for access to public records, all decisions regarding disclosure or nondisclosure are to be made only by the Public Records Officer or his/her designated representative. The Public Records Officer will act on each request in the light of the complete statute and the particular factual situation, with legal advice and assistance if deemed necessary.

Procedures for Responding to Requests

Outlined below are the procedures for responding to requests for records:

- (1) Any person contacting a department in person, via telephone, or via e-mail to request access to any public records within the department should be instructed to complete a Request for Public Record form. The form can be obtained at the following URL:
<http://www.purdue.edu/bs-ba/doc/PublicRecordRequest.DOC>
- (2) All Request for Public Record forms delivered to departments, as well as letters or other writings containing a request for access to any public record, should immediately be taken to the office of the Public Records Officer for review and response.
- (3) Any person employed within any department of the University who has any conversation with a party requesting access to any records within the department should clearly state that such employee has no authority to receive, grant, or deny any request for access, and that all requests should be submitted instead to the Public Records Officer.

The Public Records Officer shall review all requests promptly upon receipt and complete the following:

- (1) To the extent deemed necessary, identify and review the records to which access has been requested.
- (2) Consult with legal counsel of the University as to any legal issues involved whenever such consultation is deemed desirable.

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- (3) For requests received by mail or facsimile, prepare a response to the requesting party within seven calendar days following the day on which the request was received. If it is not reasonably possible to research and produce the requested documents within seven calendar days, the response will notify the requestor that a review is in process. In those circumstances, the documents will be produced as soon as is reasonably possible.
- (4) For requests made by someone who is physically present in the office of the Public Records Officer, prepare a response to the requesting party within 24 hours of the delivery of the request. In such circumstances, intervening weekends and holidays are not included in computing the 24-hour time period.
- (5) For those responses permitting access (either in whole or in part) to the records described in the Request for Public Record form, the response shall detail where and when the requested inspection may take place. Any charges for making photocopies will also be detailed in the response. The charges shall not exceed the University’s actual costs for such copying.
- (6) For those responses denying access (either in whole or in part) to the records described in the Request for Public Record form, the response shall specify the specific exception(s) which form(s) the basis of the denial.

General Scope of Subpoenas for Production of Records

Court rules of procedure permit parties to a lawsuit to obtain subpoenas directing third parties, not parties to the lawsuit, to produce records and documents in their possession. However, in certain circumstances, a third party can challenge a subpoena. Possible circumstances include 1) when the information sought is considered privileged or confidential, 2) when gathering all the records requested would be unduly burdensome, or 3) when the rules governing the use of subpoenas have not been followed.

To protect the interests of the University and of any University employee who is served with the subpoena, it is important that the subpoena be promptly reviewed and, before any response is made, a decision made as to whether any challenge is appropriate.

All such decisions as to the appropriate response to subpoenas are to be made only by designated University officers, acting in the light of the particular legal and factual situation presented, with legal advice and assistance when necessary.

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Procedures for Responding to Subpoenas

Outlined below are the procedures for responding to subpoenas:

- (1) Any University employee who is served with a subpoena requiring production of any University records in any manner whatever should immediately notify the office of the Public Records Officer and arrange to forward the subpoena for review. In no event should the subpoenaed employee undertake to comply with or respond in any way to the subpoena without having notified the Public Records Officer and without having received instructions from the Public Records Officer.
- (2) The Public Records Officer, or an authorized representative, shall review all subpoenas demanding production of any University records promptly upon receipt of the subpoena and complete the following within the time frame specified in the subpoena:
 - a) To the extent deemed necessary, identify and review the records that are the subject of the subpoena.
 - b) Consult with legal counsel of the University, as deemed desirable, as to any legal issues involved, including procedures to be followed in either complying with or filing motions to quash or modify the subpoena.
 - c) Coordinate the University’s timely response to the subpoena.
- (3) The Public Records Officer shall review all subpoenas demanding production of “protected health information” from “covered components” as those terms are defined by Purdue’s Policy on HIPAA Compliance. The Public Records Officer shall complete the following within the time frame specified in the subpoena:
 - a) To the extent deemed necessary, identify and review the records that are the subject of the subpoena.
 - b) Consult with legal counsel of the University, as deemed desirable, as to any legal issues involved, including procedures to be followed in either complying with or filing motion to quash or modify the subpoena.
 - c) Coordinate the University’s timely response to the subpoena.

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Responsibilities

The director of business managers has been designated as the Public Records Officer.

Other roles have been delegated authority to assist in carrying out the responsibility. Those roles are listed below:

Director of the Purdue University Student Hospital (Student Medical Records)
Registrar (Student Records)
Associate Director of Sponsored Program Administration (Sponsored Program Records)
Vice Chancellor for Financial Affairs (IPFW Campus Records)
Vice Chancellor for Administrative Services (Calumet Campus Records)
Vice Chancellor for Administration (North Central Campus Records)

History

This policy supersedes **Executive Memorandum No. C-2**, issued December 28, 1983.

Forms

In support of this policy, the following form is included:

Request for Public Record
<http://www.purdue.edu/bs-ba/doc/PublicRecordRequest.DOC>