



Executive Memorandum No. 43

University of Nebraska Policy on Records Requests and Contacts by Law Enforcement*

Scope and Reason for Policy

This policy is intended to address the University of Nebraska’s concern for the protection of individual rights and privacy as well as to ensure appropriate cooperation with law enforcement agencies. The following policy and procedures have been developed to assist University of Nebraska (the “University”) faculty, staff, and volunteers in responding to investigative contact by law enforcement officials. In order to protect yourself and the institution from any liability as a result of sharing information to assist with ongoing law enforcement investigations, please refer to and follow these procedures in all your interactions with law enforcement. Please contact the Office of the Vice President and General Counsel (“University General Counsel”) with any questions or concerns.

Policy Statements

1. General Statement on Investigative Contact

Most spaces within the University are open to the public, and law enforcement officials are not required to seek permission to interview an individual employee or student. It is the policy of the University, however, to require a subpoena, search warrant or other court order for all University records or information derived from University records before release to law enforcement agencies. The only exceptions are when law enforcement has a signed consent by the individual concerned to release information and for student public directory information, employee public directory information, or other public information. Student public directory information may be released unless a student has specifically requested that it not be released. Student public directory information is defined in Board of Regents Policy 5.10 at <https://nebraska.edu/-/media/unca/docs/offices-and-policies/policies/board-governing-documents/board-of-regents-policies.pdf?la=en>. (See also the section below on requests for student information.) Employee public directory information may be released. Employee public directory information is defined in Board of Regents Policy 5.10 at <https://nebraska.edu/-/media/unca/docs/offices-and-policies/policies/board-governing-documents/board-of-regents-policies.pdf?la=en>. The University General Counsel is available to assist you in determining the validity of subpoenas, search warrants, or other court orders.

The University General Counsel represents the University as an institution and employees acting as representatives of the University. If a law enforcement agency wishes to interview an employee about activities or actions by the employee that were taken pursuant to the employee's duties with the University, a member of the University General Counsel's office may be requested to be present during the interview, if reasonably available. Law enforcement agencies are under no obligation to contact the University General Counsel's office or to wait for an attorney to be present, however. If the interview involves potentially illegal conduct or activities that were not part of the employee's duties with the University, University attorneys cannot assist or be present to represent an employee. In any event, whenever contacted by law enforcement, employees may choose to engage private counsel if desired. University employees may contact the University General Counsel for an opinion regarding whether the University will be able to provide legal representation.

2. Requests for Student Information

If you are contacted by a representative from a law enforcement organization, including but not limited to a University Police Department, local law enforcement, County Attorney's Office, City Attorney's Office, or Federal Bureau of Investigation ("law enforcement organization") who seeks public directory information about students, you should refer the requesting agency to the Office of the University Registrar on your campus. The Registrar's Office will know whether a student has chosen not to release public directory information, and it will provide guidance regarding appropriate actions to be taken. You should also immediately inform the University General Counsel at 402-472-1201.

If you are approached by law enforcement in person or by phone with a general request for information regarding a student, confirm with the investigative agent that release of non-public directory information or non-directory information derived from University records may only occur upon service of a subpoena, search warrant, or other court order. Ask to see the agent's credentials and make a copy. If you are the first point of contact with an investigative agent who is delivering a subpoena, search warrant, or other court order, inform the agent that you will need to contact University General Counsel to assist you with reviewing the paperwork. Contact University General Counsel, at 402-472-1201, immediately for assistance. If the agent refuses to wait before executing the instructions detailed in a search warrant, or court order, contact University General Counsel, but *do not* inhibit the progress of the investigation.

If the request is received outside of normal business hours, call campus police or public safety and provide information regarding the contact from law enforcement and your contact information. The campus police or public safety department will ask an attorney in the University General Counsel's Office to call you.

3. Requests for Employee Information

If you are contacted by a representative from a law enforcement organization who seeks public directory information about University employees, you may provide public directory information regarding the employees. You should also immediately inform the University General Counsel at 402-472-1201.

If you are contacted by a representative from a law enforcement organization who seeks non-directory information derived from University records about University employees or is conducting an investigation of an alleged violation involving University employees, confirm with the investigative agent that release of non-directory information may only occur upon service of a subpoena, search warrant, or other court order. Ask to see the agent's credentials and make a copy. If you are the first point of contact with an investigative agent who is delivering a subpoena, search warrant, or other court order, inform the agent that you will need to contact University General Counsel to assist you with reviewing the paperwork. Contact University General Counsel, at 402-472-1201, immediately for assistance. If the agent refuses to wait before executing the instructions detailed in a search warrant, or court order, contact University General Counsel, but **do not** inhibit the progress of the investigation.

If the request is received outside of normal business hours, call campus police or public safety and provide information regarding the contact from law enforcement and your contact information. The campus police or public safety department will ask an attorney in the University General Counsel's Office to call you.

4. University Computers, Information Systems or Electronic Information

If you are contacted by a representative from a law enforcement organization who is conducting an investigation of an alleged violation involving University computing and networking resources, confirm with the investigative agent that release of non-directory information regarding students or employees and other confidential University information may only occur upon service of a subpoena, search warrant, or other court order. Ask to see the agent's credentials and make a copy. If you are the first point of contact with an investigative agent who is delivering a subpoena, search warrant, or other court order, inform the agent that you will need to contact University General Counsel to assist you with reviewing the paperwork. Contact University General Counsel, at 402-472-1201, immediately for assistance. If the agent refuses to wait before executing the instructions detailed in a search warrant, or court order, contact University General Counsel, but **do not** inhibit the progress of the investigation.

If the request is received outside of normal business hours, call campus police or public safety and provide information regarding the contact from law enforcement and your contact information. The campus police or public safety department will ask an attorney in the University General Counsel's Office to call you.

Any member of the University community who knows or believes that University information resources or systems have been compromised by a computer trespasser and believes the matter needs to be investigated by law enforcement should first report this request to University General Counsel. This office will determine whether to contact law enforcement.

5. Exclusions or Special Circumstances

A representative of a law enforcement agency who is conducting a background check and who has a release signed by the current or former student or employee is excluded from this policy. However, before providing information, you should (1) ask to see the agent's credentials or otherwise confirm the agent's identity; and (2) ensure that the release covers the requested information. Be sure to provide the Registrar with a copy of the release for the student's records.

Contact:

Office of the Vice President and General Counsel
3835 Holdrege Street
Lincoln, NE 68583-0745
402-472-1201
gcoffice@nebraska.edu

***Note:** If, during the normal course of business, you become aware of information about **an emergency involving immediate danger of death or serious physical injury**, contact the University Police or Public Safety immediately.

Dated this 24th day of August, 2021.



Ted Carter, President

Reference: August 24, 2021