

ADMINISTRATIVE MEMORANDUM

SUBJECT Usage of the Social Security account number
by The University

NUMBER 172

DATE August 23, 1982

Purpose of this Administrative Memorandum.

It is the purpose of this Administrative Memorandum to:

- (1) Review the conditions for use of the social security account number placed on The University by federal law.
- (2) Set forth some examples of permissible and impermissible use of the social security account number typically encountered within The University.
- (3) Establish policy and procedure for The University responsive to requirements of federal law for the use of the social security account number.

Pertinent federal law.

Effective December 31, 1974, the federal Privacy Act of 1974 at Section 7 conditioned use of the "social security account number" of an individual by any "Federal, State or local governmental agency." This law, passed as Public Law 93-579 and codified as 5 United States Code 552a, was analyzed in a memorandum dated September 8, 1975, from this office to the Chancellors. The basic requirements of the Act were two-fold:

- (1) that no governmental agency could "deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number" except refusal to disclose after a request pursuant to requirements of pre-existing federal statutes or pursuant to pre-existing federal or state statutes or regulations through which a system of records had already (before January 1, 1975) been set up.
- (2) that solicitation by a governmental agency of an individual's social security number be accompanied by the agency's statement of whether the disclosure is mandatory or voluntary, what statutory or other authority supports the request, and what uses will be made of the number.

When first enacted, Section 7 of the Privacy Act had no penalty for its violation nor statutory enforcer of its provisions. Through the Tax Reform Act of 1976 (P.L. 94-455), however, violation of Section 7 was made a misdemeanor, subjecting the convicted violator to "be fined not more than \$1,000 or imprisoned for not more than one year, or both." At the same time, though, four specific uses of the social security number were made permissible statutory bases for requiring disclosure and using the social security number. These were "the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within [the requesting or using agency's] jurisdiction."

Then, through enactment on December 29, 1981, of the Omnibus Reconciliation Act (P.L. 97-123) Congress raised violation of Section 7 to a felony for which the convicted violator "shall be fined not more than \$5,000 or imprisoned for not more than five years, or both."

Particular uses of the social security number by The University.

University faculty and staff share with other users of complex record systems the knowledge that the social security number is a convenient, established personal identifier for keeping track of extensive administrative information. The number can be obtained at the pre-admission stage of students and used to process tuition bills, announce and record grades, keep track of campus vehicles, maintain infirmary records, process Graduate School applications, and report data to federal and State authorities, to name a few applications. However, only some of the foregoing can be accomplished through coerced disclosure of the social security number and none can be accomplished without disclosure of the use to which the number is put, without creating the elements of a felony crime.

For example, a student may be requested to disclose on the application for resident tuition status his or her social security number. The model application at Appendix B of the residence Manual, though, conforms to statutory requirements by placing the word "voluntary" beside the appropriate blank on the form and setting forth on the form the following acknowledgment of the resident status applicant:

I hereby acknowledge that completion of Item 2 (Social Security number) is voluntary, is requested by the institution solely for administrative convenience and record-keeping accuracy, and is requested only to provide a personal identifier for the internal records of this institution.

On the other hand, G.S. 116-44.4(f) authorizes the Boards of Trustees of each constituent institution to enact ordinances for the registration of vehicles on campus. This is an express statutory grant of authority under which a campus traffic ordinance could require that vehicle owners disclose their social security numbers as a means for recording and tracking vehicle ownership. Such use is expressly authorized by the Tax Reform Act of 1976. Furthermore, if a campus traffic ordinance requiring such use of the social security number had been enacted and the consequent record system was thereafter functioning prior to January 1, 1975, this use would be authorized by the Privacy Act as originally passed by Congress.

Similarly, mandatory disclosure to and use by an institution of the social security number to trace debtors and collect debts owed the institution by set-off against State income tax refunds under G.S. Chapter 105A (Set-Off Debt Collection Act) is authorized. This is because the set-off process, as stated by the North Carolina Attorney General, is incident to the administration of a tax, a use authorized by the Tax Reform Act of 1976. (The Attorney General has also issued an Opinion that disclosure by an institution pursuant to debt collection under the State Employee Debt Collection Act, G.S. Chapter 143, Article 60, is permissible provided that the disclosure be treated as a voluntary disclosure to be accompanied by the requisite

institutional statement to the individual.) [Note. For more detailed consideration of the Privacy Act and the Opinions of the Attorney General in the context of institutional debt collection see Administrative Memoranda Number 127 (dated October 30, 1979), Number 132 (dated January 22, 1980), and Number 144 (dated December 4, 1980).]

In general, though, institutional receipt and use of the social security number must be accomplished by the prior institutional statement of basis (voluntary/mandatory), authority for disclosure, if any, and intended use; and, more often than not, the individual has the option of disclosure or nondisclosure. It is in this typical context that use of the number for admissions applications, tuition billing, grade reporting, infirmity records, and data reporting to external agencies will fall.

Administrative action.

Policy. By means of this Administrative Memorandum it is made the administrative policy of The University of North Carolina that the social security account number shall be used within The University only in a manner consistent with the laws of the United States. Such usage shall be understood to include the following:

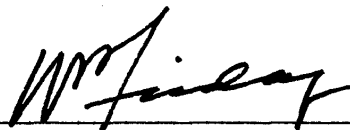
- (1) That any University use of the social security number shall fall within those uses authorized pursuant to federal law for use by mandatory disclosure or fall within those uses stated to the pertinent individual upon request to the individual for voluntary disclosure.
- (2) That uses of the social security account number authorized pursuant to federal law for use by mandatory disclosure from the individual consist only of the following:
 - (a) disclosure required by federal statute.
 - (b) disclosure to a federal, state, or local governmental agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to January 1, 1975, to verify the identity of an individual.
 - (c) disclosure to any state, political subdivision thereof, or agency thereof to establish personal identification pursuant to administration of a tax law within the jurisdiction of the state or political subdivision.
 - (d) disclosure to any state, political subdivision thereof, or agency thereof to establish personal identification pursuant to administration of a general public assistance law within the jurisdiction of the state or political subdivision.
 - (e) disclosure to any state, political subdivision thereof, or agency thereof to establish personal identification pursuant to administration of a driver's license law within the jurisdiction of the state or political subdivision.
 - (f) disclosure to any state, political subdivision thereof, or agency thereof to establish personal identification pursuant to administration of a motor vehicle registration law within the jurisdiction of the state or political subdivision.
- (3) That request by an officer, employee, or agent of The University of North Carolina for disclosure of a social security number with respect to University business and proposed release by an officer, employee, or agent of The University of North Carolina from University records of a social security number for a use not

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previously authorized shall be supported by a University statement to the pertinent individual indicating (a) whether the disclosure is mandatory or voluntary, (b) what statutory or other authority supports the disclosure, and (c) what use will be made of the disclosure.

- (4) That a constituent institution or agency of The University of North Carolina, in lieu of soliciting initial disclosure of a social security number or supplemental use of a number already disclosed to it, may establish a "dummy" social security number or other identifier for an individual, provided that the constituent institution does not have an affirmative duty, not inconsistent with federal law, to obtain and use the actual social security number in the identified context.
- (5) That a constituent institution or agency of The University of North Carolina, in lieu of soliciting supplemental use of a social security number already disclosed to it, may translate or encode the number into a form in which the social security number is not personally identifiable except by application of an institutional translator or decoder and then may use the number as transformed without reference to restriction under federal law to use of the social security account number, provided that the constituent institution does not have an affirmative duty, not inconsistent with federal law, to use the actual social security account number in the identified context.

Directive. To facilitate legally proper and effective application of this Administrative Memorandum, I am directing that Dr. Gary Barnes, Associate Vice President for Planning, and Mr. David Edwards, Special Assistant to the President, communicate with the Directors of Institutional Research and such other University officials as they may think desirable to assist appropriate personnel in the planning and implementing of University records systems that are in harmony with the Privacy Act of 1974 and related federal and state laws and regulations. To that end I am particularly desirous that any constituent institution or agency wishing to implement a coding system for social security account numbers be assisted in doing so.



William Friday