1   09 NCAC 06A .0104 is adopted as published in 35:4 NCR 385 as follows:

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3   **SECTION .0104 – PETITIONS FOR RULE-MAKING**

4   **09 NCAC 06A .0104   RIGHT TO PETITION**

5   (a) Any person submitting a petition requesting the adoption, amendment, or repeal of a rule under this Chapter shall

6   address the petition to the Rules Coordinator, Attn: DIT Legal Services, Mail Service Center 4101, Raleigh, North

7   Carolina 27699-4101. Alternatively, a petition can also be emailed to DITrulesrequests@nc.gov.

8   (b) ==For petitions to adopt or amend a rule,== the petition shall contain the following:

9   (1)   ~~for petitions to adopt or amend a rule,~~ a draft of the proposed rule or amendment;

10   (2)   a statement of the effect of the requested rule change; and

11   (3)   the name and address of the petitioner.

12   (c) The petition may ==also== contain the following:

13   (1)   the reason for the proposal;

14   (2)   the effect of the new rule on existing rules; or

15   (3)   any data supporting the rule proposal.

16

17   *History Note: Authority G.S. 143B-1321(a)(16); 116E-4(b)*

18   *   Eff. January 1, 2021.*

1   09 NCAC 06D .0101 is adopted with changes as published in 35:4 NCR 385 as follows:

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3   **SECTION .0101 – NORTH CAROLINA EDUCATION LONGITUDINAL DATA SYSTEM**

4   **09 NCAC 06D .0101   DEFINITIONS**

5   In addition to the definitions set forth in 116E-1, the following definitions shall apply to the Rules in this Section:

6   (1) "Aggregated" means the ~~act of collecting or combining~~ result of the collection and combination of

7   ~~information and presenting it in a way that~~ does not include personally identifying information of

8   ~~individuals.~~ data about a group of individuals that has been de-identified. Aggregated data can be used for

9   the purposes of making comparisons or identifying patterns within or among groups of subjects or

10   individuals. An example of aggregated data ~~would be~~ is the number of high school graduates from Wake

11   County who graduated from the University of North Carolina System with a Bachelor of Science in

12   Engineering within the past three years and their average salary.

13   (2) "Applicable law" means all statutes and rules of North Carolina and all relevant United States federal

14   ~~statutes,~~ statutes ~~regulations, standards and policy requirements~~ and regulations pertaining to the protection

15   of privacy and security of confidential data. Applicable law includes~~, but is not limited to,~~ the Family

16   Educational Rights and Privacy Act, 20 U.S.C. § 1232g; the Health Insurance Portability and

17   Accountability Act, 42 U.S.C. § 300gg, 29 U.S.C § 1181 *et seq*., and 42 USC 1320d *et seq.*; the Workforce

18   Innovation and Opportunity Act, 29 U.S.C. Ch. 32; and all regulations promulgated thereunder.

19   (3) "Contributor" means an entity that discloses Data to the System. The Contributors may be one or more of

20   the entities specified in G.S. § 116E-5(d)(1).

21   (4) "Data" means early childhood data, student data as defined in G.S. § 116E-1(4), workforce data as defined

22   in G.S. § 116E-1(7), or other personally identifying data disclosed by the Contributors to the System and

23   any data released from the System in response to data requests.

24   (5) "Early Childhood" means the time period in an individual's life from birth to age eight.

25   ~~(5)~~ (6) "GDAC" means the Government Data Analytics Center, which has the authority to operate and oversee

26   the System pursuant to G.S. § 116E-4.

27   ~~(6)~~ (7) "North Carolina Education Longitudinal Data System" or "System" means the ~~operated by GDAC along~~

28   ~~with the technical systems maintained and operated by the Contributors to collect, store, aggregate, and~~

29   ~~report or disclose Data solely when those systems are being utilized to respond to a Request.~~ system

30   referenced in G.S. 116E-5.

31   ~~(7)~~ (8) "Report" means the de-identified or aggregated information, data extract, or data file generated by the

32   System using Data on a specified group of students, workforce members, or both, to fulfill a Request.

33   ~~(8)~~ (9) "Request" means an inquiry for a Report containing information on a specified group of students,

34   workforce members, or both from the System by a Requestor

35   ~~(9)~~ (10) "Requestor" means an entity or individual that makes a Request to the System for a Report. A

36   Requestor may also be a Contributor.

37

2

1   *History Note:*   *Authority G.S. 143B-1321(a)(16); 116E-4(b)*
2   *Eff. January 1, 2021.*

3

1   09 NCAC 06D .0102 is adopted as published in 35:4 NCR 385 as follows:

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3   **09 NCAC 06D .0102   DATA REQUEST PROCESS**

4   (a) In order to initiate a Request for a Report from the System, a Requestor must complete an Education

5   Longitudinal Data System Report Request Form located at: https://it.nc.gov/services/nc-gdac. The Requestor

6   shall submit the form through the ~~website if submission is available online,~~ website, by emailing it to

7   gdacadmin@nc.gov, or by mailing a hard copy to the following address: Government Data Analytics Center,

8   4101 Mail Service Center, Raleigh, NC 27699-4101.

9   (b) The Requestor shall ~~include, at a minimum,~~ include the following information in the Request form:

10   (1) the name of the Requestor individual and his or her contact information;

11   (2) the name of the organization for whom the Requestor is making the Request on behalf of, if applicable;

12   (3) whether or not the Requestor, or the organization the Requestor is making the Request on behalf of, is

13   considered a public official as defined under 20 C.F.R. § 603.2(d);

14   (4) the categories or types of Data needed to generate the Reports being requested, ~~e.g.,~~ such as data

15   pertaining to students who graduated high school in 2013 who were students in the University of North

16   Carolina School System in 2014;

17   (5) the purposes for which the Requestor will utilize the Reports; and

18   (6) to whom or in what medium the Requestor plans to publish research based on or interpretations of the

19   Report.

20   (c) Requestors who receive data shall:

21   (1) store Reports on servers or media utilizing safeguards based on nationally accepted standards,

22   including those published by the National Institute of Standards and Technology (NIST);

23   (2) comply with all Applicable Law and the Requestor data sharing agreement in storing and using the

24   ~~Reports~~ Reports; ~~, if applicable;~~ and

25   (3) use a data destruction policy based on nationally accepted standards, including NIST standards, to

26   destroy the Report after it has served the Requestor's stated purpose if the Report contains de-

27   identified but not aggregated workforce data from the Division of Employment Security.

28

29   *History Note:*   *Authority G.S. 143B-1321(a)(16); 116E-4(b)*

30   *Eff. January 1, 2021.*

1   09 NCAC 06D .0103 is adopted as published in 35:4 NCR 385 as follows:

2

3   **09 NCAC 06D .0103   CONTRIBUTOR DATA SHARING AGREEMENTS**

4   (a) ~~All~~ A ~~Contributors~~ Contributor that ~~plan~~ plans to contribute Data to the System shall enter into ~~one or more~~ a

5   ~~Memoranda of Understanding~~ data sharing agreement with the Government Data Analytics Center and ~~one or~~

6   ~~more~~ other ~~Contributor~~ Contributors. This data sharing agreement shall ~~that~~ ~~contain, at a minimum,~~ contain the

7   following:

8   (1) obligations to comply with all Applicable Law when disclosing, accessing, or using Data in the

9   System;

10   (2) limitations on Data access to authorized persons employed or contracted by the parties of the

11   Memorandum of Understanding;

12   (3) requirements for safeguarding any Data disclosed by a Contributor; and

13   (4) terms regarding the relevant limitations of liability for State and local government agencies and private

14   or non-governmental Contributors.

15   (b) In accordance with G.S. § 143B-1385(d)(2), each Contributor shall be the sole custodian of the Data it stores

16   and maintains ~~and~~ that may be disclosed to the System. Each Contributor shall only disclose Data to the System

17   and to GDAC that the Contributor is authorized to disclose in compliance with Applicable Law.

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19   *History Note: Authority G.S. 143B-1321(a)(16); 116E-4(b)*

20   *   Eff. January 1, 2021.*

1   09 NCAC 06D .0104 is adopted as published in 35:4 NCR 385 as follows:

2

3   **09 NCAC 06D .0104**   **REQUESTOR DATA SHARING AGREEMENTS AND REQUIREMENTS**

4   (a) Except as provided in Paragraph (b) of this Rule, all Requestors shall enter into a data sharing agreement with

5   the Contributors that are the custodians of the Data that may be needed to generate a requested report. The

6   requestor data sharing agreement shall be separate and distinct from the Memorandum of Understanding

7   between the Contributors and GDAC.

8   (b) Requestors who are also Contributors and parties to the Contributor Memorandum of Understanding shall not be

9   required to enter into a Requestor data sharing agreement unless one or more of the Contributors responding to

10   the party's Request ~~requires~~ notifies the Requestor that a data sharing agreement ~~to~~ must be entered into before

11   Data is ~~disclosed.~~ disclosed in order to comply with Applicable Law. An example of when a Requestor data

12   sharing agreement may be required is an instance where a Contributor is making a Request of the NC

13   Department of Commerce for Data that has not been Aggregated.

14   (c) The Requestor data sharing agreements shall ~~contain,~~ contain ~~at a minimum,~~ the following:

15   (1) limitations on Report access to authorized persons;

16   (2) prohibition on the re-identification of persons included in Reports ~~as only de-identified information~~

17   ~~may be presented to Requestors in Reports from the System pursuant to~~ in accordance with ~~G.S. 116E-~~

18   ~~(5)(e);~~ G.S. 116E-5(e);

19   (3) information technology system and data security standards required by the Contributor who will be

20   providing Data for the Report;

21   (4) privacy compliance standards;

22   (5) data breach procedures, including notification of DIT of any cybersecurity incidents as described by

23   G.S. 143B-1320(a)~~(12)~~ (4a) or G.S. 143b-1320(a)~~(15)~~ (16a) using the incident report form available at:

24   https://it.nc.gov/resources/cybersecurity-risk-management/statewide-cybersecurity-incident-report-

25   form;

26   (6) terms regarding the disclaimer of liability ~~and warranties~~ as applied to Contributors pursuant to the

27   doctrine of sovereign immunity and statutory immunity; and

28   (7) data retention and data removal ~~standards,~~ standards. ~~if applicable.~~

29

30   *History Note:*   *Authority G.S. 143B-1321(a)(16); 116E-4(b)*

31   *Eff. January 1, 2021.*

6   1 of 1