

Fiscal Analysis of NC DIT’s Proposed Rules Regarding Petitions for Rulemaking and the Education Longitudinal Data System

Agency	NC Department of Information Technology	
Title	Rules Regarding Petitioning for Rulemaking and the Education Longitudinal Data System	
Citation	TBD	
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Authority	G.S. 143B-1321(a)(16); G.S. 116E-4(b)	
Impact Summary	State government:	Yes
	Local government:	Potential
	Private entities:	Yes
	Substantial impact:	No

Introduction

The NC Department of Information Technology is proposing five rules in compliance with applicable law. One rule establishes how persons may petition the Department to create or amend a rule as required by G.S. § 150B-20. The remaining four rules address the Education Longitudinal Data System that will be overseen by the Government Data Analytics Center. Chapter 116E established the Education Longitudinal Data System (“ELDS” or “System”), a statewide data system that contains individual-level early childhood, student, and workforce data from all levels of education and the State’s workforce. The proposed rules can be found in Appendix A.

Background and Purpose of Rulemaking

First, Chapter 150B requires that agencies with rulemaking authority adopt rules regarding the public’s right to petition the agency to adopt rules. The first proposed rule aims to put the public on notice as to how they can communicate a proposed rule to the NC Department of Information Technology (NC DIT).

Second, Chapter 116E provides that the NC Government Data Analytics Center (GDAC) within NC DIT is charged with specific oversight and operation of the ELDS, and requires that rules be

adopted to implement the Article. Other GDAC responsibilities with regards to the ELDS include approving the annual budget and establishing an advisory committee on data quality as well as a phased plan that outlines the establishment and operation of the system. The purpose of ELDS is to:

- Facilitate and enable the exchange of student data among agencies and institutions.
- Generate timely and accurate information about student performance that can be used to improve the State's education systems and guide decisions makers at all levels.
- Facilitate and enable linkage of student data and workforce data.
- Serve as a data broker for education and workforce data maintained by:
 - NC Department of Public Instruction (DPI)
 - University of North Carolina System (UNCS)
 - NC Community College System (NCCCS)
 - NC Independent Colleges and Universities, Inc. and private colleges and universities (NCICU)
 - NC Department of Commerce (DOC), Division of Employment Security (DES)
 - NC Department of Health and Human Resources (DHHS)
 - Other State agencies or organizations who choose to engage in the ELDS.

The ELDS will benefit the State of North Carolina by providing early childhood, education and workforce data that is integrated using a consistent method; a formalized, documented process that facilitates data sharing while enhancing data security and data privacy; access to actionable information and knowledge for policy and programmatic decisions; and a process for researchers to request access to record level or aggregated level data.

GDAC's primary purpose for pursuing rulemaking is to meet the statutory requirement found in Chapter 116E and to ensure that the agencies and institutions that exchange data for the purposes listed in the Chapter are doing so under the same rules and legal framework. Agencies can already share data with each other; however, the linking, de-identification, and aggregation of longitudinal data about individuals across the early childhood, education, and workforce domains has not been operationalized up to this point. GDAC and the data contributors intend for the ELDS to fill this gap and to provide valuable information to policy makers, researchers, and the public.

Summary of Proposed Rules

There are five rules that NC DIT is proposing for adoption. A summary of the rules is as follows:

1. The "Right to Petition" proposed rule outlines the process to petition NC DIT to adopt, amend or repeal an NC DIT rule. Staff from NC DIT will review any petitions received and make decisions based on relevant staff input. The entities who will be affected by this proposed rule are any persons who plan to petition NC DIT to create or amend a rule, and could be a member of the public, an information technology vendor, another agency of the State, and so forth.

2. The “Definitions” rule provides definitions relevant to the ELDS rules to allow readers to understand capitalized terms contained in those rules. The entities who will be affected by this rule are parties who will disclose data to the System (“Contributors”) pursuant to Chapter 116E of the NC General Statutes and entities who make requests for data sets or reports from the System (“Requestors”).
3. The “Data Request process” rule outlines how an individual can request a report from the ELDS, the minimum information required in the form, and requirements of requestors who will actually receive information from the ELDS. This proposed rule will impact entities who make requests for data sets or reports from the System.
4. The “Contributor Data Sharing Agreement” rule requires Contributors to enter into a memoranda of understanding (“MOU”) with the GDAC prior to sharing data in the System, outlines four minimum required elements in the agreement, states that Contributors are the sole custodians of their own data, and that Contributors are only permitted to disclose data to the system if authorized to do so. This proposed rule will impact Contributors to the System who will or have signed the ELDS MOU.
5. The “Requestor Data Sharing Agreements” rule provides that “Requestors” must enter into data sharing agreements prior to receiving reports or data from the System if a Contributor requires such an agreement, and lists seven elements that must be present in the agreement. This proposed rule will impact entities who make requests for data sets or reports from the System.

Impact Analysis of the Right to Petition Rule

The “Right to Petition” proposed rule provides details on how a member of the public can petition NC DIT to create or amend administrative rules. Persons are currently able to submit rule-making petitions to NC DIT prior to this rule being promulgated, but have not been on notice of the process for doing so.

Depending on the complexity of the petition, an NC DIT rulemaking request would likely take up to one hour to complete. Agency review would depend on the amount of detail included in the rule and which divisions of NC DIT the proposal would impact. Review by NC DIT would involve an estimated three to five NC DIT staff persons to review, at two to four hours each, for a total of six to 20 hours. At least one attorney would be involved in the review of the proposed rule or rule change. NC DIT will use the process provided in G.S. § 150B-20 for its review of the petition. Approval or denial of the proposal depends on what is being requested, the reasons for the request, the impact on the current rules and procedures utilized by NC DIT, and how the proposal aligns with NC DIT’s statutory and regulatory authority.

There is no substantial impact associated with the “Right to Petition” proposed rule.

Impact Analysis of the ELDS Rules

I. Impacts to Contributors

The proposed rules regarding ELDS will have minimal impacts on the Contributors. As stated earlier, the Contributors are already exchanging data amongst themselves and with entities outside of State government who request data for various purposes. The implementation of ELDS and integration of data across early childhood, student, and workforce domains, which has not been successfully done in North Carolina to this point, should result in the production of more valuable and actionable data. Consequently, Contributors, other state agencies, legislators and their staff, researchers, and so forth will have access to individual or aggregate data linked from various sources that they could not have obtained without the ELDS.

The following are expected benefits of the ELDS for Contributors who disclose or request data from the System:

- Use of the data to inform research, policy, program management, and how access and use of the data could improve outcomes of programs and services.
- More visibility into the impacts and outcomes of policies and programs on North Carolina residents
- Increased and improved data sharing capabilities across State agencies could increase the State's ability to measure the impacts of programs and services supported by grant funds and to further obtain additional grants.
- Increased efficiencies for agencies who already receive many requests for data or reports by utilizing one standardized data request process if data is held by one or more Contributors.
- Consistent process for contributing data in response to a request.
- Consistent data integration methodology.
- Reduction of duplication in information technology development with regards to longitudinal entity matching, data linkages, and reporting.
- Creation of consistent actionable information for use in programmatic and policy decisions, which could include supporting State and local entities in responding to grant solicitation by provide access to published outcome data and supporting the State's economic development goals by providing knowledge on NC workforce (i.e. outcome information of the states post-secondary participants).

Although the proposed rules do have the impact of requiring State agencies, other institutions, and data requestors to enter into a certain data sharing agreement (i.e., the an MOU) prior to disclosing or receiving longitudinal data through the System, the rules do not introduce any additional burden on these entities to establish these agreements. When a State agency or university shares confidential data about individuals with another entity, whether it be a public official, legislative staff, or an academic researcher, some form of a data sharing agreement must be entered into with the receiving entity. That agreement must provide for the protection and safeguarding of any confidential data exchanged. The proposed ELDS rules merely direct the relevant parties to enter a specific data sharing agreement developed for the ELDS. The MOU takes the place of multiple one-off, unique agreements that could subject each of the parties conflicting terms, confusion, and duplication of efforts. As of early March 2020, all of the required State agency Contributors have agreed to the terms of the Contributor Data Sharing MOU.

It is important to note that all of the Contributors already share data with one another or with external entities; however, the ELDS consolidates the linking and aggregation of data from multiple sources into one technical and legal framework and provides for a connection between all

of the separate systems and applications. The ELDS will also provide critical metadata and reference data to give meaning to the files exchanged, and will include a framework to improve data quality.

Generally speaking, the ELDS will also have the benefit of connecting disparate technical environments and warehouses. The data systems of some of the Contributors are segregated and do not allow for linking of individual records across the various data sources. The ELDS will alleviate this separation by integrating the systems and allow for the secure linking, aggregating and reporting of data through one technical infrastructure using one request process. For example, if a staff member at the Fiscal Research Division wanted to obtain workforce information for cohort of individuals that entered a Head Start program in 1999 and who graduated from the University of North Carolina after attending Broughton High School, he or she would have to request data from both NC DHHS's Early Childhood Integrated Data System (ECIDS) application and DPI's NC SchoolWorks system, and they would receive two sets of data with different identifiers for individuals in the group because the two systems do not de-identify data in the same ways. In addition, the staff member could only receive DES wage data from NC SchoolWorks and no other information about the employment of that cohort. The implementation of the ELDS will allow Requestors to make one request of the System and will provide a report or data set that shows data about individuals from multiple sources over multiple years. The rules themselves do not provide this value or result as it this is the intent and direction already stated in statute; however, the MOU referenced in proposed rule .XX03 include this framework.

The proposed rules should not have an impact on data storage costs. The Contributors already maintain and store the confidential data that they will disclose and link through the ELDS in response to a request. Many, including NCICU, have previously received state and federal appropriations or grants to develop data warehouses or reporting systems. Unfortunately, due to differences in how each application or system operates, it has been difficult or impossible to link the technologies together. ELDS will address this issue by integrating data from each of the systems using common standards and individual identifiers.

There may be monetary costs associated with the content of the proposed rules if they have the impact of increasing requests of the System. The number of requests the Contributors received and fulfilled in 2019 that could have been processed by a system such as ELDS is shown in Table 1 as a point of reference. The Contributors currently devote staff and resources to the review of data requests submitted to their organizations and may have to expand those resources with the implementation of ELDS. We asked the Contributors to provide estimates of the number of requests they expect to receive when the ELDS is implemented, along with estimates for staff time and salary costs for staff who would review and respond to data requests. This information is provided below in Table 2. Note that well over half of the total estimated cost is attributed to the estimate provided by DHHS. However, to date, DHHS has only fulfilled two requests directly from their Early Childhood Integrated Data System in the five years that it has been operational. We believe the number of anticipated requests they provided is inflated, and the total number of ELDS requests would likely be closer to ten to twenty requests per year.

Table 1. 2019 Data Requests

	# Received	# Fulfilled
NC DPI	14	6
NC Commerce	24	18
UNC System	0	0
NCCCS	1	1
NC DHHS	12	12
NCICU	0	0

Table 2. Estimated Contributor Staff Costs for ELDS Requests.

Staff Involved	Hours per Request	Average Base Salary		Annual # Of Requests		Annual Cost			
		Low	High	Yearly	Hourly	Low	High	Low	High
NC DPI									
Technical	8	24	\$75,000	\$36	5	10	\$1,440	\$8,640	
Supervisory/Programmatic	1	2	\$100,000	\$48			\$240	\$960	
NC Commerce									
Technical	8	24	\$75,000	\$36	3	6	\$864	\$5,184	
Supervisory/Programmatic	1	2	\$100,000	\$48			\$144	\$576	
UNC System									
Technical	8	24	\$75,000	\$36	3	6	\$864	\$5,184	
Supervisory/Programmatic	1	2	\$100,000	\$48			\$144	\$576	
NCCCS									
Technical	2	2	\$93,600	\$45	3	6	\$270	\$540	
Supervisory/Programmatic	2	2	\$93,600	\$45			\$270	\$540	
NC DHHS									
Technical	16	48	\$75,000	\$36	52	240	\$29,952	\$414,720	
Supervisory/Programmatic	2	4	\$100,000	\$48			\$4,992	\$46,080	
NCICU									
Technical	8	24	\$99,478	\$56	10	24	\$4,456	\$32,083	
Supervisory/Programmatic	5	16	\$64,509	\$36			\$1,806	\$13,870	

It is important to note that a significant portion of these requests will involve data from multiple Contributors who would review the same request, so one request could implicate data from two or more Contributors. For instance, of the five requests that NCDPI predicted that they would have to review and respond to, two could involve requests necessitating data in the custody of UNC. So the total requests received under those circumstances would not be the sum of those request numbers (five and two). Instead, the total would be five where two of the requests involve action by UNC.

Contributors must also devote time and resources to respond to ELDS requests within certain time periods once they sign the Contributor MOU required by the proposed rules. The MOU includes deadlines for Contributors to review and approve data requests and resulting reports. Relevant Contributors whose data is being requested have fourteen (14) days to review the request and either approve or deny it. If a request has been approved, the Contributor then has an additional fourteen (14) days to actually disclose the data to the System. Once GDAC has generated a report from the linked data sets, the Contributors have twenty-one (21) days to review the report and either approve or deny release to the Requestor. These timelines are based on DPI's NCSchoolWorks data request

and review process, and can be modified through an amendment to the MOU if the parties choose to do so in the future.

Data breaches are also a concern for any technical infrastructure that hosts or integrates confidential data. Each Contributor and GDAC will continue to be responsible for the privacy and security of data each entity is the custodian of, or in GDAC's case, for the data it receives from State agencies in order to provide application and analytics development.

Liability for breaches to the individual Contributors will not be impacted by the adoption of the ELDS rules. In fact, the streamlining of data sharing agreements and the subsequent consistent governance process will likely reduce duplication of data disclosures and encourage responsible management of data by the Contributors and the Requestors. In addition, the non-governmental Contributor entities that do not have sovereign immunity do have statutory immunity for disclosures of student data made to State agencies. See. G.S. § 116-229.1 (limitation of liability for private colleges and universities and NCICU) and G.S. § 115C-566.1 (limitation of liability for nonpublic schools).

The GDAC currently maintains and assists in operating multiple analytic applications, data warehouses, and data integration systems for local and State agencies. Three of these technical systems will be included in the ELDS, and they are DPI's NC SchoolWorks, DOC's Common Follow-Up System, and DHHS's ECIDS. These three applications are currently or will be hosted in the GDAC technical environment at SAS Institute. ECIDS will be transferred to the SAS hosted environment by July 1, 2020. SAS has served as GDAC's technical partner since GDAC's establishment, and SAS is required by contract and by law to actively secure all of GDAC's hosted environments. Per NC DIT's contractual agreement with SAS, SAS is responsible for costs and damages related to data breaches up to \$61,500,000 per occurrence.

Liability and resulting damages from breaches are highly fact-specific, and the costs and harm from such incidents depend heavily on the circumstances, including who caused the incident; whether proper safeguards were implemented; if data was actually accessed, downloaded, or obtained; and so forth. Consequently, the costs of possible breaches cannot currently be quantified; but, GDAC and the Contributors will ensure that data is protected from unauthorized use or disclosure with every step of the ELDS process.

To that end, the rules do provide requirements for the data Contributors and the Requestors to safeguard data if and when they are disclosing or receiving it. However, these requirements are already stated in relevant state and federal law and regulations. The Contributors will have to determine what level of confidential data, if any, can be released to each Requestor, whether through the ELDS or through other means of exchanging data. For instance, federal regulations only permit DOC to disclose de-identified but not aggregated wage and workforce data to public officials who intend to use the data for official public purposes. This means DOC cannot disclose de-identified but not aggregated data to non-public officials or to public officials who do not intend to use the data for official public purposes. This and other federal limitations on data disclosures are reiterated in the ELDS MOU. GDAC does not view the inclusion of these terms in the MOU or their requirement in the proposed rules as an added impact on the Contributors as they are already mandated to comply with relevant laws and regulations.

In conclusion, successfully implementing the System could lead to increased requests for reports. The utilization of a consistent administrative and technical process for data requests should reduce administrative and technical burdens on the State and increase efficiencies. The relative costs and benefits of rule adoption are unknown.

II. Impacts to Requestors

Currently, Requestors cannot obtain one longitudinal data set from the State that tracks individuals from early childhood through employment, nor can data be provided in aggregate form from all the systems. All of the separate systems maintained by the various State agencies and educational institutions are not currently integrated, and the entity of individuals within each technical system cannot be linked across the various sources of data. The ELDS will allow Requestors to track the impacts of a multitude of factors, from public programs and services, to demographics, to education level, on de-identified individuals from birth through employment, while also maintaining the privacy of NC residents.

GDAC does not believe the proposed rules will negatively impact any data Requestors. These entities will be required to review and enter into a specific data sharing agreement pursuant to the rules; but as stated throughout this analysis, relevant state and federal laws already require entities exchanging confidential or sensitive data to enter into data sharing agreements that include obligations to safeguard data. GDAC does not view the requirement to enter into a specific agreement to be an additional burden on Requestors.

Requestors will have to expend time and resources to complete the ELDS request form and, if approved, the Requestors will have to review and sign the Requestor data sharing agreement. Depending on the level of sophistication, the form should only take one hour or less to complete, and the agreement should only take two to four hours to review. It is difficult to quantify the total costs for time expended by Requestors, but it is important to note that they would only have to complete one request of the System to obtain data from multiple Contributors. GDAC views the integrated request process for ELDS as a method of saving Requestors time and resources who would otherwise need to submit requests to two or more agencies and universities to obtain multiple data sets. GDAC's evaluation of the costs and benefits to Requestors yields no substantial impact on Requestors.

III. Impacts to GDAC

As stated previously, GDAC already supports the operation of NC SchoolWorks, the Common Follow-Up System, and ECIDS on behalf of DPI, DOC, and DHHS respectively. The General Assembly has appropriated funds to those agencies and to GDAC directly for development and operation of the technical systems, along with longitudinal efforts and staff. Combining the request process for these applications and the external technical systems storing college and university data will have minimal time and economic impacts on GDAC, and the adoption of rules has little effect on GDAC operations.

As stated above, GDAC currently maintains and assists in operating multiple analytic applications, data warehouses, and data integration systems for local and State agencies. All of GDAC's longitudinal applications and systems are currently or will be hosted in the GDAC technical environment at SAS Institute. SAS has served as GDAC's technical partner since GDAC was established, and SAS is required by contract and by law to actively secure all of GDAC's hosted environments. As stated above, pursuant to NC DIT's contractual agreement with SAS, SAS is responsible for costs and damages related to data breaches up to \$61,500,000.

GDAC believes that the ELDS would receive between ten and twenty requests per year. This is an increase in the number of requests that have been historically submitted to the Contributors. GDAC staff would be involved in reviewing requests received, collaborating with Contributors to ensure the disclosure process is followed, tracking progress of the linkage of data and development of reports, and disclosing reports to the requestors. The estimated costs of this additional staff time are shown in Table 3 below.

Table 3. Estimated GDAC Staff Costs for ELDS Requests.

Staff Involved	Hours per Request		Average Base Salary		Annual # Of Requests		Annual Cost	
	Low	High	Yearly	Hourly	Low	High	Low	High
Technical	0.25	0.5	\$85,000	\$41	10	20	\$106	\$410
Supervisory/Programmatic	0.1	0.25	\$135,000	\$65	10	20	\$65	\$325

The estimated increased costs to GDAC staff costs are minimal. Please note that even if the rules were not adopted, these increases in staff time and costs would still occur. As stated previously, GDAC already supports data integration activities as required by Chapter 143B of the NC General Statutes and longitudinal applications operated by other state agencies. The adoption of the proposed rules will not change the costs to GDAC as it is already charged to oversee and operate the ELDS. In addition, GDAC is already under contract with SAS to host and support the systems and aid in fulfilling requests for data related to student and workforce efforts, along with many other domains. The proposed rules will not have a substantial economic impact on GDAC.

IV. Impact to the Public

The General Assembly’s intent in establishing the Education Longitudinal Data System was to allow State agencies and other stakeholders to share education and workforce data to analyze the impacts of education and workforce programs. We expect that the implementation of the ELDS will provide all stakeholders more visibility into the outcomes and effects of North Carolina policies and programs. Greater visibility into the outcomes of programs and policies could directly or indirectly impact NC residents who receive services, benefits, grants, etc. from programs and services being evaluated. These impacts could be positive in the way of increased funds being made available to programs found to have positive and effective results, or they could bear a negative impact where programs and services are reduced or terminated if programs and services have a negative impact on residents or the State. Because enterprise analytics pertaining to education and workforce data have largely not been performed yet, the impact to NC residents is not possible to be quantified as this time.

Conclusion

The impacts to Contributors, Requestors, GDAC, and the public from the proposed rulemaking petition rule and the ELDS rules are largely unknown at this time. GDAC and the Contributors required to participate in ELDS as listed in Chapter 116E have already agreed to terms in a data sharing memorandum of understanding. Increased efficiencies and decreased burdens thanks to a more standardized and consistent contribution, request, and reporting process are difficult to

quantify. We do expect longitudinal data and report requests to increase to ten to twenty requests per year, and we were able to estimate those costs. However, these costs and benefits would still be incurred regardless of the adoption of these proposed rules.

Appendix A
NC DIT Proposed Rules

XX NCAC XX.0X01 is proposed for adoption as follows:

SECTION .XX00 – PETITIONS FOR RULE-MAKING

XX NCAC XX.0X01 RIGHT TO PETITION

(a) Any person submitting a petition requesting the adoption, amendment, or repeal of a rule under this Chapter shall address the petition to the Rules Coordinator, Attn: DIT Legal Services, Mail Service Center 4101, Raleigh, North Carolina 27699-4101. Alternatively, a petition can also be emailed to DITrulesrequests@nc.gov.

(b) The petition shall contain the following:

- (1) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;
- (2) a statement of the effect of the requested rule change; and
- (3) the name and address of the petitioner.

(c) The petition may contain the following:

- (1) the reason for the proposal;
- (2) the effect of the new rule on existing rules; or
- (3) any data supporting the rule proposal.

History Note: Authority G.S. 143B-1321(a)(16); G.S. 150B-20

XXX NCAC XXX.XX01 is proposed for adoption as follows:

SECTION .XX00 – NORTH CAROLINA EDUCATION LONGITUDINAL DATA SYSTEM

XXX NCAC XXX.XX01 DEFINITIONS

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

- (1) “Aggregated” means the act of collecting or combining information and presenting it in a way that does not include personally identifying information of individuals. Aggregated

data can be used for the purposes of making comparisons or identifying patterns within or among groups of subjects or individuals. An example of aggregated data would be the number of high school graduates from Wake County who graduated from the University of North Carolina System with a Bachelor of Science in Engineering within the past three years and their average salary.

- (2) “Applicable law” means all statutes and rules of North Carolina and all relevant United States federal statutes, regulations, standards and policy requirements pertaining to the protection of privacy and security of confidential data. Applicable law includes the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; the Health Insurance Portability and Accountability Act, 42 U.S.C. § 300gg, 29 U.S.C § 1181 *et seq.*, and 42 USC 1320d *et seq.*; the Workforce Innovation and Opportunity Act, 29 U.S.C. Ch. 32; and all regulations promulgated thereunder.
- (3) “Contributor” means an entity that discloses Data to the System. The Contributors may be one or more of the entities specified in G.S. § 116E-5(d)(1).
- (4) “Data” means student data as defined in G.S. § 116E-1(4), workforce data as defined in G.S. § 116E-1(7), or other personally identifying data disclosed by the Contributors to the System and any data released from the System in response to data requests.
- (5) “GDAC” means the Government Data Analytics Center, which has the authority to operate and oversee the System pursuant to G.S. § 116E-4.
- (6) “North Carolina Education Longitudinal Data System” or “System” means the technical system operated by GDAC along with the technical systems maintained and operated by the Contributors to collect, store, aggregate, and report or disclose Data solely when those systems are being utilized to respond to a Request.
- (7) “Report” means the de-identified or aggregated information, data extract, or data file generated by the System using Data on a specified group of students, workforce members, or both, to fulfill a Request.
- (8) “Request” means an inquiry for a Report containing information on a specified group of students, workforce members, or both from the System by a Requestor
- (9) “Requestor” means an entity or individual that makes a Request to the System for a Report. A Requestor may also be a Contributor.

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

XXX NCAC XXX.XX02 is proposed for adoption as follows:

XXX NCAC XXX.XX02 DATA REQUEST PROCESS

- (a) In order to initiate a Request for a Report from the System, a Requestor must complete an Education Longitudinal Data System Report Request Form located at: <https://it.nc.gov/services/nc-gdac>. The Requestor shall submit the form through the website if submission is available online, by emailing it to gdacadmin@nc.gov, or by mailing a hard copy to the following address: Government Data Analytics Center, 4101 Mail Service Center, Raleigh, NC 27699-4101.
- (b) The Requestor shall include, at a minimum, the following information in the Request form:
- (1) the name of the Requestor individual and his or her contact information;
 - (2) the name of the organization for whom Requestor is making the Request on behalf of, if applicable;
 - (3) whether or not the Requestor, or the organization the Requestor is making the Request on behalf of, is considered a public official as defined under 20 C.F.R. § 603.2(d);
 - (4) the categories or types of Data needed to generate the Reports being requested, e.g., data pertaining to students who graduated high school in 2013 who were students in the University of North Carolina School System in 2014;
 - (5) the purposes for which the Requestor will utilize the Reports; and
 - (6) to whom or in what medium the Requestor plans to publish research based on or interpretations of the Report.
- (c) Requestors who receive data shall:
- (1) store Reports on servers or media utilizing safeguards based on nationally accepted standards, including those published by the National Institute of Standards and Technology (NIST);
 - (2) comply with all Applicable Law and the Requestor data sharing agreement in storing and using the Reports, if applicable; and
 - (3) use a data destruction policy based on nationally accepted standards, including NIST standards, to destroy the Report after it has served the Requestor's stated purpose if the

Report contains de-identified but not aggregated workforce data from the Division of Employment Security.

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

XXX NCAC XXX.XX03 is proposed for adoption as follows:

XXX NCAC XXX.XX03 CONTRIBUTOR DATA SHARING AGREEMENTS

(a) All Contributors that plan to contribute Data to the System shall enter into a Memorandum of Understanding with the Government Data Analytics Center and one or more Contributor that contain, at a minimum, the following:

- (1) obligations to comply with all Applicable Law when disclosing, accessing, or using Data in the System;
- (2) limitations on Data access to authorized persons employed or contracted by the parties of the Memorandum of Understanding;
- (3) requirements for safeguarding any Data disclosed by a Contributor; and
- (4) terms regarding the relevant limitations of liability for State and local government agencies and private or non-governmental Contributors.

(b) In accordance with G.S. § 143B-1385(d)(2), each Contributor shall be the sole custodian of the Data it stores and maintains and that may be disclosed to the System. Each Contributor shall only disclose Data to the System and to GDAC that the Contributor is authorized to disclose in compliance with Applicable Law.

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

XXX NCAC XXX.XX04 is proposed for adoption as follows:

XXX NCAC XXX.XX04
REQUIREMENTS

REQUESTOR DATA SHARING AGREEMENTS AND

- (a) Except as provided in Paragraph (b) of this Rule, all Requestors shall enter into a data sharing agreement with the Contributors that are the custodians of the Data that may be needed to generate a requested report. The requestor data sharing agreement shall be separate and distinct from the Memorandum of Understanding between the Contributors and GDAC.
- (b) Requestors who are also Contributors and parties to the Contributor Memorandum of Understanding shall not be required to enter into a Requestor data sharing agreement unless one or more of the Contributors responding to the party's Request requires a data sharing agreement to be entered into before Data is disclosed. An example of when a Requestor data sharing agreement may be required is an instance where a Contributor is making a Request of the NC Department of Commerce for Data that has not been Aggregated.
- (c) The Requestor data sharing agreements shall contain, at a minimum, the following:
- (1) limitations on Report access to authorized persons;
 - (2) prohibition on the re-identification of persons included in Reports as only de-identified information may be presented to Requestors in Reports from the System pursuant to G.S. 116E-(5)(e);
 - (3) information technology system and data security standards required by the Contributor who will be providing Data for the Report;
 - (4) privacy compliance standards;
 - (5) data breach procedures, including notification of DIT of any cybersecurity incidents as described by G.S. 143B-1320(a)(12) or G.S. 143b-1320(a)(15) using the incident report form available at: <https://it.nc.gov/resources/cybersecurity-risk-management/statewide-cybersecurity-incident-report-form>;
 - (6) terms regarding the disclaimer of liability and warranties as applied to Contributors;
and
 - (7) data retention and data removal standards, if applicable.

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