

Article 17.

Confidentiality of Legislative Communications.

**§ 120-129. Definitions.**

As used in this Article:

- (1) Document. – All records, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, communications, or other documentary material regardless of physical form or characteristics made or received in the transaction of legislative business.
- (1a) Legislative commission. – Any commission or committee which the Legislative Services Commission is directed or authorized to staff by law or resolution and which it does, in fact, staff.
- (2) Legislative employee. – Employees and officers of the General Assembly, consultants and counsel to members and committees of either house of the General Assembly or of legislative commissions who are paid by State funds, students at an accredited law school while in an externship program at the General Assembly approved by the Legislative Services Commission, and employees of the School of Government at the University of North Carolina at Chapel Hill. The term does not include legislators and members of the Council of State.
- (3) Legislator. – Any of the following with respect to the North Carolina Senate or House of Representatives:
  - a. A member-elect.
  - b. A member-designate.
  - c. A member. (1983, c. 900, s. 1; 1983 (Reg. Sess., 1984), c. 1038, ss. 1-3; 2006-264, s. 29(i); 2009-129, s. 1; 2010-96, s. 20; 2010-169, s. 24(a); 2023-134, s. 27.7(a).)

**§ 120-130. Drafting and information requests to legislative employees.**

(a) A drafting request made to a legislative employee from a legislator is confidential. Neither the identity of the legislator making the request nor, except to the extent necessary to answer the request, the existence of the request may be revealed to any person who is not a legislative employee without the consent of the legislator.

(b) An information request made to a legislative employee from a legislator is confidential. Neither the identity of the legislator making the request nor, except to the extent necessary to answer the request, the existence of the request may be revealed to any person who is not a legislative employee without the consent of the legislator. Notwithstanding the preceding sentences of this subsection, the periodic publication by the Fiscal Research Division of the Legislative Services Office of a list of information requests is not prohibited, if the identity of the legislator making the request is not revealed.

(c) Any supporting documents submitted or caused to be submitted to a legislative employee by a legislator in connection with a drafting or information request are confidential. Except to the extent necessary to answer the request, neither the document nor copies of it, nor the identity of the person, firm, or association producing it, may be provided to any person who is not a legislative employee without the consent of the legislator.

(d) Drafting or information requests or supporting documents are not "public records" as defined by G.S. 132-1. (1983, c. 900, s. 1.)

**§ 120-131. Documents produced by legislative employees.**

(a) Documents prepared by legislative employees upon the request of legislators are confidential. Except as provided in subsection (b) of this section, the existence of the document may not be revealed nor may a copy of the document be provided to any person who is not a legislative employee without the consent of the legislator.

(b) A document prepared by a legislative employee upon the request of a legislator becomes available to the public when the document is one of the following:

- (1) A bill or resolution once introduced.
- (2) A proposed amendment or committee substitute for a bill or resolution once offered at a committee meeting or on the floor of a house.
- (3) A proposed conference committee report once offered at a joint meeting of the conference committees.
- (4) A bill, resolution, memorandum, written analysis, letter, or other document resulting from a drafting or information request once distributed at a legislative commission or standing committee or subcommittee meeting not held in executive session, closed session, or on the floor of a house.
- (5) A letter or other written communication appointing an individual to serve on a board, commission, or other position in accordance with this Chapter.

(b1) A document prepared by a legislative employee upon the request of any legislator, that pursuant to this Article does not become available to the public, is not a "public record," as defined by G.S. 132-1.

(c) This section does not prohibit the dissemination of information or language contained in any document which has been prepared by a legislative employee in response to a substantially similar request from another legislator, provided that the identity of the requesting legislator and the fact that he or she had made such a request is not divulged.

(d) Administrative documents prepared by legislative employees shall become available to the public, and subject to retention schedules thereof, in accordance with policies adopted by the Legislative Services Commission. (1983, c. 900, s. 1; 1983 (Reg. Sess., 1984), c. 1038, s. 4; 1993 (Reg. Sess., 1994), c. 570, s. 9; 2023-134, s. 27.7(b).)

**§ 120-131.1. Requests from legislative employees for assistance in the preparation of fiscal notes and evaluation reports.**

(a) A request, including any accompanying documents, made to an agency employee by a legislative employee of the Fiscal Research Division for assistance in the preparation of a fiscal note is confidential. An agency employee who receives such a request or who learns of such a request made to another agency employee of his or her agency shall reveal the existence of the request only to other agency employees of the agency to the extent that it is necessary to respond to the request, and to the agency employee's supervisor and to the Office of State Budget and Management. All documents prepared by the agency employee in response to the request of the Fiscal Research Division are also confidential and shall be kept confidential in the same manner as the original request, except that documents submitted to the Fiscal Research Division in response to the request cease to be confidential under this section when the Fiscal Research Division releases a fiscal note based on the documents.

(a) Repealed by Session Laws 2021-180, s. 27.2(a), effective July 1, 2021.

(b) As used in this section, "agency employee" means an employee or officer of every agency of North Carolina government or its subdivisions, including every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority, or other unit of government of the State or of any county, unit, special district, or other political subdivision of government.

(c) Violation of this section may be grounds for disciplinary action. (1995, c. 324, s. 8.1(a); c. 507, s. 8.2; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2008-196, s. 1(b); 2021-180, s. 27.2(a).)

### **§ 120-132. Testimony by legislative employees.**

(a) Except as provided in subsections (b) and (c) of this section, no present or former legislative employee may disclose any information that the individual, while employed or retained by the State, may have acquired:

- (1) In a standing, select, or conference committee or subcommittee of either house of the General Assembly or a legislative commission;
- (2) On the floor of either house of the General Assembly, in any office of a legislator, or at any other location of the State legislative buildings and grounds as defined in G.S. 120-32.1(d);
- (3) As a result of communications that are confidential under G.S. 120-130 and G.S. 120-131.

(b) A present or former legislative employee may disclose information acquired under subsection (a) of this section that would be reflected in the official public record or was otherwise publicly disseminated.

(c) In accordance with this Article, the common law of legislative privilege, and the common law of legislative immunity, a legislative employee or former legislative employee may disclose information acquired under this Article if the legislator or former legislator consents. (1983, c. 900, s. 1; 1983 (Reg. Sess., 1984), c. 1038, s. 5; 2010-169, s. 24(b); 2023-134, s. 27.7(c).)

### **§ 120-133. Repealed by Session Laws 2023-134, s. 27.7(d), effective October 3, 2023.**

### **§ 120-134. Penalty.**

Violation of any provision of this Article shall be grounds for disciplinary action in the case of employees, for referral to the academic institution for appropriate discipline in the case of law student externs, and for removal from office in the case of public officers. No criminal penalty shall attach for any violation of this Article. (1983, c. 900, s. 1; 1983 (Reg. Sess., 1984), c. 1038, s. 6; 2009-129, s. 2.)

### **§ 120-135. Legislator is custodian of documents.**

(a) Each legislator, while in office and after leaving office, shall be the custodian of all documents, supporting documents, drafting requests, and information requests made or received by that legislator while a legislator.

(b) A legislator, while in office or after leaving office, shall not be required to reveal or to consent to reveal any document, supporting document, drafting request, or information request made or received by that legislator while a legislator. (2023-134, s. 27.7(e).)

### **§ 120-136. Reserved for future codification purposes.**

**§ 120-137. Legislative privilege.**

Nothing in this Chapter nor in Chapter 132 of the General Statutes shall be construed as a waiver of the common law of legislative privilege or legislative immunity by a legislator or former legislator. A legislator or former legislator may assert the common law of legislative privilege or the common law of legislative immunity in all instances. (2023-134, s. 27.7(e).)

**§ 120-138. Reserved for future codification purposes.**

**§ 120-139. Reserved for future codification purposes.**