

Subpoenas, Search Warrants, Court Orders, Service of Process, and Information Requests

FAQs

General Information

The Office of Legal Affairs at SMU is responsible for determining the appropriate response to a subpoena or other request for information received by an SMU employee or faculty member relating to SMU business records. Should you receive such a subpoena, or other written request for information, you should call the Office of Legal Affairs immediately (x8-3233) so that we may determine the next step.

Federal and state laws govern current and former student and employee records, as well as requests for “public” information under the federal Freedom of Information Act (“FOIA”) and the Texas Public Information Act. Additionally, SMU Policy 13.8, Policy for Service of Subpoenas and Responding to Subpoenas or Other Requests for Records of Current or Former Students and Employees, <http://smu.edu/policy/S13/subpoena.html>, provides additional instructions and guidance.

Frequently Asked Questions

What is a subpoena and what am I supposed to do with it?

A subpoena is a legal document which may be issued by a court or agency (state and federal), and, in some states, including Texas, by an attorney acting as an officer of the court. A subpoena is used in a court or agency process to gather records and other information. It may be used to require someone to appear and give testimony at a deposition, court or agency hearing, or appear as a witness in a civil or criminal trial. A subpoena may also be used by a party to request information, records, or other items in a civil lawsuit.

Should you receive a subpoena, or other written request for information, you should call the Office of Legal Affairs immediately (x8-3233). Before SMU responds to a subpoena, a determination must be made whether it meets several specific requirements as to its legal enforceability. There is usually a deadline for response by SMU stated in a subpoena, so it is very important that you provide the original subpoena and any attachments, along with the envelope, certified mail receipt, or other information to the Office of Legal Affairs so that it may be reviewed in a timely manner. Failure to respond appropriately, or in a timely manner, to such records requests or subpoenas could result in you or SMU being held in contempt of court, or subject to a complaint or lawsuit.

I have been served with a document that looks like it might be part of a lawsuit, what should I do?

The Office of Legal Affairs at SMU is responsible for determining the appropriate response to a subpoena or other request for information received by an SMU employee or faculty member for SMU student or employee records. Additionally, if you have been served with papers that look like you or SMU, or both, are named as parties in a lawsuit, you need to contact the Office of Legal Affairs immediately (x8-3233).

What is a “FOIA” Request?

A FOIA request is generally a request for information made to SMU by an individual or entity claiming a right to the information under the federal “Freedom Of Information Act.” As a private institution, SMU is generally **not** subject to these requests and declines to provide any information under a FOIA request (see next FAQ). However, please check with the Office of Legal Affairs to determine whether the request you receive is valid, and if any response is necessary. The Office of Legal Affairs will coordinate any response on behalf of SMU.

What laws govern the release of employee and student records to third parties?

Federal and state laws govern current and former student and employee records, as well as requests for “public” information under the federal Freedom of Information Act (“FOIA”) and the Texas Public Information Act. SMU is a private institution, and generally is not subject to requests made under either the federal or Texas public information act: Southern Methodist University (“SMU”) is a Texas nonprofit corporation, a “private or independent institution of higher education,” as defined by the Texas Education Code, § 61.003(15). Generally, employment records are only released to third-parties under a valid court order or subpoena, or by a written release executed by the employee.

Disclosure of student educational records to third parties is protected by the Family Educational Rights and Privacy Act of 1974, as amended (“FERPA”), 20 U.S.C. § 1232(g), et seq. Subject to certain exceptions listed in the FERPA regulations, SMU will not release student records to third parties without prior written consent from the student. Students may authorize release of their records to third parties by following the procedures found at the SMU Registrar homepage: <https://smu.edu/registrar/ferpa/release.asp>

What laws govern the release of records maintained by the SMU Police Department, if requested by third parties?

The SMU Police Department (“SMUPD”) derives its authority and its right to have commissioned peace officers, with jurisdiction on SMU’s private property, from the Texas Education Code, § 51.212, “Peace Officers at Private Institutions,” which specifically provides for a campus security force at “a private institution of higher education” in Texas.

Neither SMU, nor its private police force, is “supported in whole or in part by public funds” as described by the Texas Public Information Act, § 552.003(5). Further, neither SMU nor its police force is “a governmental body” as that term is defined in § 552.003(1) of the Texas Public Information Act; a “law enforcement agency” as defined under the Texas Code of Criminal Procedure § 2.132(a); or an “agency,” as defined under the Federal Freedom of Information Act, 5 USCA, § 551(1). SMU is not, therefore, required to respond to requests for records or information under the provisions of the Texas Public Information Act.

I was involved in an auto accident on the SMU campus and SMUPD responded. How can I get a copy of the report for my insurance company?

Please contact the SMUPD directly, at the non-emergency number: 214-768-3388, or via email: police@smu.edu

A uniformed officer from a law enforcement agency is in my office with a search warrant – should I let this person conduct a search?

No. Please ask the officer to wait a few moments while you call the SMUPD non-emergency number, 214-768-3388 immediately and request assistance in responding.

What should I do if an FBI or other federal agent arrives at my office and requests information as part of a background check, or asks to “inspect the premises or documents”?

Please contact the Office of Legal Affairs at 214-768-3233. Do not provide information or documents, and call after the fact. You may also direct the person to come to the Office of Legal Affairs, room 130, Perkins Administration Building.

What should I do if a process server or sheriff’s deputy arrives at my office and tries to give me documents relating to a lawsuit against SMU?

You should decline service, but advise the process server or deputy that service will be accepted by the Office of Legal Affairs. (See also SMU Policy 13.8, Policy for Service of Subpoenas and Responding to Subpoenas or Other Requests for Records of Current or Former Students and Employees: <http://smu.edu/policy/S13/subpoena.html>).

Can the Office of Legal Affairs represent or give personal legal advice to individual faculty members, staff, or students?

No. You should retain your own counsel for any personal legal matters or disputes. The Office of Legal Affairs represents Southern Methodist University.