

**SUMMARY AND RECOMMENDATION
INTRODUCTION AND ADOPTION
NEW SBHE POLICY 802.7**

Summary

The Federal Trade Commission has adopted final rules implementing provisions in the Fair Credit and Accurate Transactions Act of 2003 (FACTA) regarding identity theft. Referred to as the “Red Flag Rule,” the regulations apply to organizations that have consumer accounts and extend credit or permit multiple payments. Entities subject to the rules include financial institutions, utilities, retailers, government units and others, including colleges and universities. The regulations require that covered entities develop and implement an Identity Theft Program, or “Red Flags” program. Originally scheduled to take effect in 2008, the enforcement deadline for the regulations was extended first to May 1, 2009 and then to August 1, 2009.

NDUS controllers and business officers developed a recommended policy and template for institution Red Flags programs. The recommended policy requires that each institution adopt and implement a Red Flags program and establishes minimum requirements. The chancellor’s cabinet considered and approved the recommended policy at its May 6, 2009 meeting.

According to SBHE Policy 330, the SBHE may waive the requirement of a second meeting and immediately approve second reading and adoption following introduction and first reading. In order to put the policy requirement in place with time for institutions to finalize Red Flags programs prior to the enforcement deadline, it is recommended that the SBHE waive the second meeting requirement and immediately approve this policy.

Recommendation

I recommend the SBHE adopt the following motion:

“That new SBHE Policy 802.7 as shown on the attached draft is approved on introduction and first reading, that the second meeting requirement is waived and the policy is approved on second reading and final adoption, effective immediately.”



William Goetz, Chancellor

Date of Meeting: May 14, 2009

**NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
POLICY MANUAL**

SUBJECT: FINANCIAL AFFAIRS

EFFECTIVE: May 14, 2009

Section: 802.7 Identity Theft Prevention

1. The Federal Trade Commission has published rules implementing part of the Fair Credit and Accurate Transactions Act of 2003 (FACTA) regarding the duties of creditors, card issuers and users of consumer reports. The rules are set forth at 16 CFR Part 681 and are commonly referred to as “Red Flags Rule” regulations. The regulations require entities with covered accounts, including colleges and universities, to develop and implement a written Identity Theft Program, or “Red Flags” program.
2. Each NDUS institution shall adopt and implement a written Red Flags program to ensure compliance with Red Flags Rule regulations, to identify risks associated with identity theft and to mitigate the effects of identity theft upon the college or university, its employees, students, patients, constituents and customers. At a minimum, institution Red Flags programs shall include:
 - a. Processes for identifying patterns, practices or specific activities that indicate the possible existence of an identity theft;
 - b. Identification of reasonable and appropriate action steps that will be taken when a pattern, practice or specific activity has been detected, including consultation with the NDUS CIO if the pattern, practice or specific activity relates to a university system-supported application;
 - c. Processes for oversight of service providers or vendors and requiring that accounts accessed or managed by service providers or external vendors on behalf of the institution have implemented an appropriate program;
 - d. Training to educate employees on the program;
 - e. Periodic review and updates to the program;
 - f. Designation of an institution officer or officers responsible for program administration; and
 - g. An annual report on compliance and effectiveness of the program and recommendations for changes, to be filed with the office or officer designated by the institution president.

HISTORY: New Policy.