



TO: Deans Advisory Council
Department Heads
Center/Institute Directors

DATE: February 9, 2000

FROM: Ronald W. Collins, Provost and
Vice President for Academic Affairs

SUBJECT: Research Data and the Freedom of Information Act

The Office of Management and Budget (OMB) recently issued final regulations amending the federal Freedom of Information Act (FOIA) to implement a legislative mandate to make research data obtained from federally funded projects more available to the tax-paying public. After receiving considerable input from the scientific community, OMB accepted the "Shebby Amendment," which limits the type and amount of data an investigator is obliged to provide in response to a FOIA request, specifically:

- Data requested under the FOIA must be related to findings used by the federal government in developing an agency action or position that has the force and effect of law.
- The agency must publicly have cited the findings specifically in connection with developing the action or position.
- Certain data are explicitly excluded, such as preliminary analyses, communications with colleagues, plans for future research, data that could violate personal privacy or that must be kept confidential for commercial reasons.

The new OMB regulations apply to all federal awards issued after November 8, 1999 and to continuing awards renewed after that date. For the full text of OMB Circular A110, consult the Federal Register of October 8, 1999, or consult the OMB Web site:
www.whitehouse.gov/OMB/circulars/a110/a110.html

The State of Michigan also has regulations that could require investigators to make research data available to the public. These regulations, and the bases on which particular data may be exempt from compliance with a formal data request, can be complicated or ambiguous.

For this reason, all requests for employees at EMU to provide data under either state law or federal FOIA regulations must be evaluated by University Attorney Kenneth McKanders and the Legal Affairs staff, who will recommend an appropriate response.

If you receive any such request for research data, please immediately notify me or Mr. McKanders. Although Eastern Michigan University has every intention of complying with all federal and state laws, we will also do what is necessary and proper to protect the integrity of all research activities conducted at EMU.

PROVOST AND VICE PRESIDENT FOR ACADEMIC AFFAIRS

106 Welch Hall • Ypsilanti, Michigan 48197

734.487.3200 Fax: 734.487.4299 E-mail: ronald.collins@emich.edu