



DEPARTMENT OF LAW
OFFICE OF THE
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STATE CAPITOL
Phoenix, Arizona 85007

BRUCE E. BABBITT
ATTORNEY GENERAL

April 13, 1977

Wright

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ARIZONA ATTORNEY GENERAL

Mr. Jack G. Penick
Vice President for Business Affairs
Arizona State University
Tempe, Arizona 85281

Re: 77-85 (R77-142)

Dear Mr. Penick:

I received your April 1, 1977 letter asking whether Arizona State University may continue to request students, faculty and staff to disclose, on a voluntary basis, their social security number for use by the University as a unique and consistent number for identification cards and other University records. The Attorney General has concluded that the University may continue to use social security numbers, if voluntarily disclosed.

The utilization and request for voluntary disclosure of student, faculty and staff social security numbers was permissible under the 1974 Privacy Act.¹ A 1976 amendment² to the Privacy Act restricted the circumstances in which an agency, including any state agency or political subdivision, could use or request disclosure of an individual's social security number:

1. Public Law 93-579, § 7; 42 U.S.C. § 552(a).
2. 42 U.S.C. § 408. For legislative history see House Conference Report No. 94-1515, Joint Explanatory Statement of the Committee of Conference, U. S. Congressional and Administrative News, Vol. 9A, October 15, 1976.

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Whoever--

* * *

(h) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000.00 or imprisoned for not more than one year, or both.

42 U.S.C. § 408.

Four uses authorized by federal law are specifically enumerated in 42 U.S.C. § 405(C)(i):

It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law. . . .

Whether the use and disclosure of social security numbers is permitted in other non-enumerated areas is unclear. However, we have obtained informal statements from the United States Department of Justice, Information and Privacy Section, and from counsel for the Social Security Administration, that voluntary disclosure is still permitted in your fact situation.

3. The impact of 42 U.S.C. § 405(C)(ii), a repealer of any federal statute inconsistent with the policy expressed in U.S.C. § 405(C)(i), is unclear.

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Based primarily upon these informal statements, we are of the opinion that you may obtain the voluntary disclosure of student, faculty and staff social security numbers for use in connection with identification cards, official transcripts, class records, class lists, grade reports, enrollment records, course requests, drop/adds, withdrawals, applications for employment, employee warning notices and employee evaluations. We must emphasize that only internal use of voluntarily disclosed social security numbers is permitted. A special effort should be made to prevent their disclosure to non-university personnel.

You also asked, in a prior letter, whether Arizona State University qualifies as a state agency which administers "general public assistance" laws. It does not. The Arizona Supreme Court has construed the meaning of "public assistance" as follows:

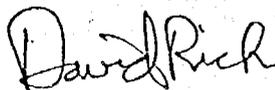
When we used the expression "public assistance," we had in mind the kind of assistance enumerated in the [social security] act and its title, such as "assistance to the needy blind," "assistance to dependent children," "old age assistance," and "all forms of public assistance including general home relief, outdoor and indoor care and medical care for persons in need, old age assistance, aid to dependent children, aid to the blind, service to crippled children" Subdivision (a), § 7.

Maricopa County v. State of Arizona,
51 Ariz. 372, 77 P.2d 212, 214 (1938).

If you have any further questions about any portion of this opinion, please call me.

Sincerely,

BRUCE E. BABBITT
Attorney General



DAVID RICH
Assistant Attorney General

DR:jrs
cc: Dr. John W. Schwada