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From: **Gilles Muller** <gilles.muller@sjsu.edu>

Date: Tue, Jan 10, 2017 at 8:27 AM

Subject: Information Regarding Non-Disclosure Agreements (NDAs)

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On behalf of Research AVP Pamela Stacks, following is information regarding non-disclosure agreements (NDAs). This information is being sent to share with members of your units. In particular, class room settings are addressed. General counsel has approved this information.

Message To: Deans

Message From: Pamela Stacks, Research AVP, on behalf of the Office of Research

Subject: Information Regarding Non-Disclosure Agreements (NDAs)

A Non-Disclosure Agreement (often known as an "NDA") is a type of contract that typically:

- defines and describes information, knowledge, or materials to be shared between or among the parties; and
- restricts the usage and disclosure of the shared information, knowledge, or materials.

NDAs are sometimes proposed when the University is considering entering into a business relationship with a company or individual and where there is a need to understand or evaluate each other's technology, research or processes, some of which might be proprietary or otherwise sensitive in nature.

However, while NDAs are common in private industry, they are often inappropriate in the University context, because of conflicts with the California Public Records Act, the McKee Transparency Act (which applies to all SJSU auxiliary organizations) or other laws; because they can inhibit faculty members' and

the University's ability to use information; and because they may be inconsistent with the University's educational mission.

Any NDA which purports to apply to SJSU or any department or unit thereof (or to commit or bind SJSU) can only be signed by an authorized SJSU administrator. **Any SJSU faculty or staff member who signs without authorization could face individual legal liability for non-compliance with the NDA.**

Students and student assistants generally should not be asked to sign an NDA as part of class projects or academic courses, absent exceptional circumstances that necessitate an NDA. In exceptional cases where faculty members believe it is necessary for students to enter into an NDA, they must obtain approval from an appropriate administrator.

Even when students are not involved and an NDA is solely between a faculty member and a third party agency or business entity (and does not purport to commit or bind the University), faculty members are strongly discouraged from entering into an NDA because it may inhibit their ability to use the data provided including through publication or further research.

Any questions regarding the use of NDAs should be referred to the Office of Research in care of Associate Vice President for Research Pamela Stacks at pamela.stacks@sjsu.edu or Associate Dean of Research Gilles Muller at gilles.muller@sjsu.edu.

Sincerely,

Pamela Stacks

Associate Vice President, [Office of Research](#)

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