

Family Educational Rights and Privacy Act (FERPA)

WHAT IS FERPA?

The Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment, protects the privacy of student records. The Act provides for the right to inspect and review education records, the right to seek to amend those records, and to limit disclosure of information from the records. The Act applies to all institutions that are the recipients of federal funding. The regulations for FERPA can be found in 34 CFR Part 99.

WHO IS PROTECTED UNDER FERPA?

Students who are currently enrolled in higher education institutions or formerly enrolled, regardless of their age or status in regard to parental dependency. Students who have applied but have not attended an institution do not have rights under FERPA.

WHAT ARE EDUCATION RECORDS?

With certain exceptions, a student has rights of access to those records which are directly related to him/her and which are maintained by an educational institution or party authorized to keep records for the institution. "Education Records" generally include any records in the possession of the institution which contain information directly related to a student, with the exception of those addressed below. FERPA contains no requirement that certain records be kept at all. This is a matter of institutional policy and/or state regulation. The records may be handwritten

or in the form of print, computer, magnetic tape, e-mail, film or some other medium. FERPA coverage includes records, files, documents, and data directly related to students. This would include transcripts or other records obtained from a school in which a student was previously enrolled.

WHAT IS NOT INCLUDED IN AN EDUCATION RECORD?

- sole-possession records or private notes held by educational personnel which are not accessible or released to other personnel
- law enforcement or campus security records which are solely for law enforcement purposes
- records relating to an individual's employment by the institution (unless employment is contingent on student status)
- records relating to treatment provided by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional and disclosed only to individuals providing treatment
- records of an institution which contain only information about an individual obtained after that person is no longer a student at that institution (i.e., alumni records)

WHAT DOCUMENTS CAN BE REMOVED FROM AN EDUCATION RECORD BEFORE THE STUDENT VIEWS THE RECORD?

- any information that pertains to another student
- financial records of the student's parents
- some confidential letters and statements of recommendation under conditions described in FERPA section 99.12 or University Policy 09-08-01.

WHAT IS DIRECTORY INFORMATION?

Institutions may disclose information on a student without violating FERPA through what is known as "directory information". This generally includes a student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized sports and activities, weight and height of athletes, dates of attendance, degrees and awards received and other similar information. Each institution is required to annually notify students in attendance of what constitutes directory information. This notice must also provide procedures for students to restrict the institution from releasing his/her directory information.

WHO WOULD GENERALLY BE PERMITTED ACCESS WITHOUT THE STUDENT'S WRITTEN CONSENT?

- school officials who have "legitimate educational interests" as defined in the University's annual FERPA notification
- parents of a "dependent student" as defined by the Internal Revenue Code
- the issuer of a judicial order or subpoena which allows the institution to release records without the student's consent, however, a "reasonable effort" must generally be made to notify the student before complying with the order

WHEN DO YOU NEED CONSENT TO DISCLOSE PERSONALLY IDENTIFIABLE INFORMATION FROM AN EDUCATION RECORD (INCLUDING TRANSCRIPTS)?

With specific exceptions (listed below), a signed and dated consent by the student must be provided by the student before any disclosure is made.

The written consent must:

- specify the records that may be disclosed
- state the purpose of disclosure

- identify the party or class of parties to whom the disclosure may be made

WHAT IS "PERSONALLY IDENTIFIABLE INFORMATION"?

- the student's name
- name of the student's parent or other family members
- address of the student or student's family
- a personal identifier, such as a social security number or student number
- a list of personal characteristics that would make the student's identity easily traceable

WHEN IS THE STUDENT'S CONSENT NOT REQUIRED TO DISCLOSE INFORMATION?

The exceptions are:

- to University faculty, staff, and administrators with a legitimate educational interest (defined in the University's annual notification)
- to parents of a "dependent student"
- to Federal, State and local education authorities involving an audit or evaluation of compliance with education programs
- in connection with processing Financial Aid
- to organizations conducting studies for, or on behalf of, educational institutions
- to accrediting organizations
- to comply with judicial order or subpoena
- health or safety emergency
- directory information
- to the student
- results of disciplinary hearing to an alleged victim of a crime of violence

Requests to disclose should always be handled with caution and approached on a case-by-case basis.

HOW DOES INCREASING TECHNOLOGY IMPACT FERPA ON OUR CAMPUSES?

The use of computerized record-keeping systems is increasing at a tremendous rate. Electronic data will eventually replace most paper documents. We try to ensure that appropriate policies are established to protect the confidentiality of those records, educate faculty, administrators, staff, and students, about the policies, and make sure the policies are enforced. The same principles of confidentiality must be applied to electronic data as apply to paper documents.

These general guidelines are not intended to be legal advice. This document provides only a summary of FERPA. For further information regarding FERPA or clarification regarding FERPA, refer to the act and regulations or contact the FERPA representative for your campus.