

FERPA: Basic Guidelines for Faculty and Staff

The Family Education Rights and Privacy Act of 1974, commonly known as FERPA, is a federal law that protects the privacy of student education records. Students have specific, protected rights regarding the release of such records and FERPA requires that institutions adhere strictly to these guidelines. Therefore, it is imperative that the faculty and staff have a working knowledge of FERPA guidelines before releasing educational records.

Educational Records

FERPA gives parents, guardians and students over the age of 18 the following rights regarding educational records:

- Right to inspect and review their own records;
- Right to seek amendment of their records;
- Right to consent to disclosure;
- Right to file a complaint with the Department of Education;
- Right to opt out of directory information (provide a definition of directory information);
- Definition of school officials and legitimate educational interest;
- Records transfer policy.

Parents, guardians and students over the age of 18, have a right to know about the purpose, content, and location of information kept as a part of their educational records. They also have a right to expect that information in their educational records will be kept confidential unless they give permission to the school to disclose such information. Therefore, it is important to understand how educational records are defined under FERPA. Educational records are defined by FERPA as:

Records that directly relate to a student and that are maintained by an educational agency or institution or by a party acting for the agency or institution.

Educational records are directly related to the student and are either maintained by the school or by a party or organization acting on behalf of the school. Such records may include:

- Written documents; (including student advising folders)
- Computer media;
- Microfilm and microfiche;
- Video or audio tapes or CDs;
- Film;
- Photographs

Any record that contains personally identifiable information that is directly related to the student is an educational record under FERPA. This information can also include records kept by the school in the form of student files, student system databases kept in storage devices such as servers, or recordings or broadcasts which may include student projects.

Records Not Considered As Educational Records

The following items are not considered educational records under FERPA:

- Private notes of individual staff or faculty; (NOT kept in student advising folders);
- Medical records (which are covered under HIPAA);
- Statistical data compilations that contain no mention of personally identifiable information about any specific student.

Faculty notes, data compilation, and administrative records kept *exclusively* by the maker of the records that are **not accessible or revealed to anyone else** are not considered educational records and, therefore, fall outside of the FERPA disclosure guidelines. However, these records may be protected under other state or federal laws such as the doctor/patient privilege. It is recommended that you check to make sure that you fully comply with these disclosure guidelines before disseminating any of this information.

Two Types of Educational Records

There are two types of educational records as defined under FERPA. Each type of educational record is afforded different disclosure protections. Therefore, it is important for faculty and staff to know the type of educational record that is being considered for disclosure.

Directory Information

Some information in a student's educational record is defined as directory information under FERPA. Under a strict reading of FERPA, the school may disclose this type of information without the written consent of the student. However, the student can exercise the option to restrict the release of directory information by submitting a formal request to the school to limit disclosure. Directory information may include:

- Name
- Address
- Telephone number
- Date and place of birth
- Dates of attendance
- Grade level
- Enrollment status
- Participation in activities and sports
- Weight and height of athletes
- Degrees, honors, awards
- Photograph

Though it is not specifically required by FERPA, institutions should always disclose to the parents/guardians or students over the age of 18 that such information is considered by the school to be directory information and, as such, may be disclosed to a third party upon request. Institutions should err on the side of caution and request, in writing, that the parent/guardians or students over the age of 18 allow the school to disclose directory information to third parties.

Non-directory Information

Non-directory information is any educational record not considered directory information. Non-directory information must not be released to anyone without the prior written consent of the parents/guardians and students over the age of 18. Further, faculty and staff can access non-directory information only if they have a legitimate academic need to do so. Non-directory information may include:

- Social security numbers;
- Student identification number;
- Race, ethnicity, and/or nationality;
- Gender
- Transcripts; grade reports
- Academic or Behavior Plans and any supporting documents

Transcripts are non-directory information and, therefore, are protected educational records under FERPA. Students have a right to privacy regarding transcripts held by the school where third parties seek transcript copies.

Institutions should require that the parent/guardian or student over the age of 18, first submit a written request to have transcripts sent to any third party as the privilege of privacy of this information is held by the student under FERPA.

Prior Written Consent

In general, a the parent/guardian or student over the age of 18's prior written consent is always required before institutions can legitimately disclose non-directory information. Institutions may tailor a consent form to meet their unique academic needs. However, prior written consent must include the following elements:

- Specify the records to be disclosed;
- State the purpose of the disclosure;
- Identify the party or class of parties to whom the disclosure is to be made;
- The date;
- The signature of the parent/guardian or student over the age of 18, whose record is to be disclosed;
- The signature of the custodian of the educational record.

Institutions do **not** need prior written consent to disclose non-directory information where the health and safety of the student is at issue, when complying with a judicial order or subpoena, or where, as a result of a crime of violence, a disciplinary hearing was conducted by the school, a final decision was recorded, and the alleged victim seeks disclosure. In order for institutions **to be able to disseminate non-directory information** in these instances **FERPA requires that institutions annually publish the policies and procedures** that the institutions will follow in order to meet FERPA guidelines.