

FERPA 101

Student Records: Institutional Responsibility and Student Rights

What Every University Employee Should Know

What is FERPA?

- **Family Educational Rights and Privacy Act**
- Grants students certain rights concerning their educational record
 1. Access (inspect and review education record)
 2. Confidentiality (control over disclosure of record)
 3. Amend (seek to amend incorrect record)

The Basics

- Student educational records are confidential and may generally **NOT BE** released *without written consent of the student*
- Faculty/staff can only have access to student information for legitimate use in the completion of job responsibilities
 - Need-to-Know

The Basics, cont...

- You have a responsibility to protect educational records in your possession
- Student information should only be kept as long as it is valid and useful
Otherwise destroy responsibly, Shred

Click the below link for additional information:

[Retention of Records](#)

What is an Educational Record?

- Directly related to a student
- Maintained by the educational institution
- Includes – but not limited to:
 - Grades
 - Transcripts
 - Class Lists
 - Student Schedule
 - Financial Records
 - Race/Gender
 - PCID
 - SSN
 - Student Employment & Payroll
 - Discipline Files
 - Enrollment Records

What is an Educational Record?

Does not include:

- Records in ‘sole possession’ of the maker used as a memory aid
- Seating chart
- Medical/psychological records used solely in connection with treating the student
- University Police records
- Records related to regular employment

Right to Access

- Must make request **in writing**
- Assemble data and make available for viewing within *45 days*
- Review must take place in the presence of a University official
- Does **NOT** mean student can make a copy of their exam, letters in their file, etc.

No Right to Access

- Financial information submitted by parents
- Records with information about more than one student
 - *University must first redact information about other student*
- Confidential letters and statements of recommendation if the student has waived his/her right to review

Right to Confidentiality

General Rule:

Obtain *written* consent from students *before* disclosing any personally identifiable information (non-directory) from their education records to a third party

NO information can be released for students with a directory/confidentiality hold

Right to Confidentiality

Third Party Requests and Electronic Signature

- Any disclosure of education records to a third party, even in accordance with a student's consent, is permitted but not required under FERPA
- Each institution must have the flexibility to decide whether a request for disclosure meets the requirements of FERPA and whether the institution wishes to make the requested disclosure

Right to Confidentiality

Third Party Requests and Electronic Signatures

- The FERPA regulations do not require that an eligible student provide his or her consent directly to the educational agency or institution, and these regulations do not impose a different requirement for electronic signatures
- FERPA does support a institution's decision to only accept electronic signatures presented on behalf of the eligible student by certain third parties, such as **Federal or State agencies**

Consent **NOT** Necessary For:

1. Directory information - **UNLESS** the student has placed a *directory hold on their record*

- Name
- Address (local & permanent)
- Email Address
- Telephone Number
- Major Field of Study
- Dates of Attendance
- Degrees/awards received
- Participation in officially-recognized activities/sports
- Weight/height of members of athletic teams
- Most recent previous school attended by the student

Consent **NOT** Necessary For:

2. School officials with legitimate educational interest

- Including faculty, administration, clerical and professional employees, and others who need student record information for the effective functioning of their office or position

CAUTION: Disclosure to an instructor with a legitimate educational interest does **NOT** authorize disclosure of that information to a third party

Consent **NOT** Necessary For:

3. *OTHERS*

- Subpoenas or court orders
- To enforce terms and conditions of financial aid
- Notification of final results of disciplinary actions taken against student who commits crimes of violence or non-forcible sex offense
- Notification to parents of students under 21 who violate university rules or policies governing the possession or use of alcohol or controlled substance
- To appropriate officials if information necessary to protect health or safety of student or other individuals

When Records May Be Released to Parents

1. Student was claimed as a dependent on most recent Federal Income Tax form
 - Releasing records to parents **without** PROOF of dependency is a violation of FERPA
 - LSUA can have student verify if he/she has been claimed by parent(s) as a dependent
 - If discrepancy exists, parent(s) can then be asked to send copy of tax form

When Records May Be Released to Parents

2. Student provides written consent

- Adequate written consent must:
- Specify the precise records to be released
- Specify the purpose of the disclosure
- Precisely identify to whom the disclosure may be made
- Be signed and dated by the student

Consent by **financially independent** student to one parent is **NOT** consent to the other parent

When Records May Be Released to Parents

3. Student violates University drug and alcohol policies

- May disclose information regarding the violation of any federal, state, or local law or any rule or policy of the institution governing the use or possession of alcohol or a controlled substance, **IF:**
 - The student is under the age of 21 (**20 or younger**)
AND
 - The University determines the student has committed a disciplinary violation with respect to such use or possession

When Records May Be Released to Parents

4. Student disciplined for crime of violence or non-forcible sex offense

- The **ONLY** information the University may reveal is:
 - Name of the student being disciplined
 - Description of the violation committed
 - Any sanction imposed by the University
 - Names of any other students, (victims, witnesses) **BUT ONLY** if the other students consent in writing to the release of their names

Disclosure should clarify that the student has been sanctioned through the disciplinary system, and not charged with or found guilty of any criminal offense

When Records May Be Released to Parents

5. University receives a subpoena –

- Must be lawfully issued and served pursuant to state and federal rules of civil procedure
- Must notify the student prior to release of the records to allow the student to take steps to quash the subpoena or obtain a protective order

When Records May Be Released to Parents

5. University receives a subpoena (con't)

- Can only release records described in the subpoena (*a request for academic transcripts does not authorize the release of financial aid records*)
- No need to notify if issued by a federal grand jury or law enforcement agency and the subpoena clearly instructs the University “*to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena*”

When Records May Be Released to Parents

6. Disclosure to parents (or others) is necessary to protect the health or safety of the student or other individuals
 - Factors that must be considered before releasing **non-directory information** in a crisis or emergency situation include:
 - The severity of the threat to those involved
 - The need for the information
 - The time required to deal with the emergency
 - The ability of the parties to whom the information is given to deal with the emergency

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