

FERPA
A Primer on the Family Educational Rights and Privacy Act

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FERPA, the Family Educational Rights and Privacy Act, also known as the Buckley Amendment, is a federal law protecting the right of students to review their records and prevent their records from being disclosed to third parties.

- ▶ “Educational Records” – defined very broadly and include almost any record directly related to a student that is maintained by an institution. This definition includes current and former students.

- ▶ Exception include: Notes which are in the sole possession of instructional or administrative personnel; law enforcement records maintained by the law enforcement unit; employment records for students who also work at an institution; health records protected by other federal law.

The original purpose of the Buckley Amendment was to prevent institutions from maintaining secret files on students. If a student requests to see his or her educational records, those records must be provided to the student. A student also has the right to request corrections to his or her records.

“Directory information” – an institution may define certain types of information as directory information. Directory information typically includes the student’s name, address, telephone number, home address, major, dates of attendance, class status, degrees received, weight and height (for student athletes). This provision allows the University to release its campus directory with student information. This information may be disclosed without the student’s permission, but *a student may notify the institution that such information is not to be disclosed.*

Educational records may not be disclosed without the student’s written consent. This means that records may not be disclosed to third parties, including parents, guardians or spouses, without the written consent of the student.

There are some exceptions (call the Office of the University Attorney, 915-7014, when in doubt):

- ▶ Institutional employees who have a legitimate educational interest in the information may access relevant records.

- ▶ When a student applies for financial aid, the relevant records may be provided to anyone with a legitimate interest.

- ▶ When a student applies to another institution, it can be assumed that the student is authorizing the provision of records to that institution.

- ▶ Certain government officials may have access to records.

- ▶ Records may be provided in response to a valid subpoena (but in some cases the student must be notified first and given an opportunity to quash the subpoena).

- ▶ The University may choose to disclose records to parents when the parent provides a current tax return indicating that the student is being supported financially by the parent. We try to avoid this situation by encouraging parents and students to discuss the student's need to sign a waiver.

- ▶ Facts or events that are not based on a document or record are not educational records. For example, if a University employee becomes aware that a student has been hospitalized or has had an accident, that knowledge, by itself, is not an educational record.

The University is currently working on a University-wide release that students could fill out online. The release would allow students to identify individuals who are eligible to access their educational records.

- ▶ Plan is to allow students to list more than one individual and to break down information by different categories.

- ▶ An online or electronic release is only valid if we can make it fairly certain that the student is the individual completing the release.

- ▶ Only certain designated staff and faculty could access the form.