

The Family Educational Rights and Privacy Act Privacy of Student Information

The Family Educational Rights and Privacy Act (FERPA) sets limits on the disclosure of personally identifiable information from school records, and defines the rights of the student to review the records and request a change to the records.

With exceptions such as those noted in this section, FERPA generally gives postsecondary students the right

- to review their education records,
- to seek to amend inaccurate information in their records, and
- to provide consent for the disclosure of their records.

These rules apply to all education records the school keeps, including admissions records (only if the student was admitted) and academic records as well as any financial aid records pertaining to the student. Therefore, the financial aid office is not usually the office that develops the school's FERPA policy or the notification to students and parents, although it may have some input.

Student's & parents' rights to review educational records

A school must provide a student with an opportunity to review his or her education records within 45 days of the receipt of a request. A school is required to provide the student with copies of education records, or make other arrangements to provide the student access to the records, if a failure to do so would effectively prevent the student from obtaining access to the records. While the school may not charge a fee for retrieving the records, it may charge a reasonable fee for providing copies of the records, provided that the fee would not prevent access to student records.

While the rights under FERPA have transferred from a student's parents to the student when the student attends a postsecondary institution, FERPA does permit a school to disclose a student's education records to his or her parents if the student is a dependent student under IRS laws.

Note that the IRS definition of a dependent is quite different from that of a dependent student for FSA purposes. For IRS purposes, students are dependent if they are listed as dependents on their parent's income tax returns. (If the student is a dependent as defined by the IRS, disclosure may be made to either parent, regardless of which parent claims the student as a dependent.)

Prior written consent to disclose the student's records

Except under one of the special conditions described in this section, a student must provide written consent before an education agency or school may disclose personally identifiable information from the student's education records. The written consent must—

- state the purpose of the disclosure,
- specify the records that may be disclosed,
- identify the party or class of parties to whom the disclosure may be made, and
- be signed and dated.

If the consent is given electronically, the consent form must—

- identify and authenticate a particular person as the source of the electronic consent, and
- indicate that person's approval of the information contained in the electronic consent.

The FERPA regulations include a list of exceptions where the school may disclose personally identifiable information from the student's file without prior written consent. Several of these allowable disclosures are of particular interest to the financial aid office, since they are likely to involve the release of financial aid records.

Disclosures to school officials

Some of these disclosures may be made to officials at your school or another school who have a legitimate interest in the student's records. Typically, these might be admissions records, grades, or financial aid records. Disclosure may be made to:

- other school officials, including teachers, within the school whom the school has determined to have legitimate educational interests.
- to officials of another postsecondary school or school system, where the student receives services or seeks to enroll.

If your school routinely discloses information to other schools where the student seeks to enroll, it should include this information in its annual privacy notification to students. If this information is not in the annual notice, the school must make a reasonable attempt to notify the student at the student's last known address.

Disclosures to Accrediting agencies and 3rd party Servicers

Disclosures may be made to authorized representatives of the National Accrediting Commission of Career Arts & Sciences (NACCAS) for evaluation, and enforcement purposes. "Authorized representatives" includes employees of NACCAS with authorization to perform required duties in regards to our school. 3rd party servicers who assist with the servicing and maintenance of student files for both non and federal student aid participants.

Disclosures to government agencies

Disclosures may be made to authorized representatives of the U.S. Department of Education for audit, evaluation, and enforcement purposes. "Authorized representatives" includes employees of the Department—such as employees of the Office of Federal Student Aid, the Office of Postsecondary Education, the Office for Civil Rights, and the National Center for Education Statistics—as well as firms that are under contract to the Department to perform certain administrative functions or studies. In addition—The Department of Veterans Affairs.

- Disclosure may be made if it is in connection with financial aid that the student has received or applied for. Such a disclosure may only be made if the student information is needed to determine the amount of the aid, the conditions for the aid, the student's eligibility for the aid, or to enforce the terms or conditions of the aid.
- A school may release personally identifiable information on an F, J, or M nonimmigrant student to U.S. Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service) in compliance with the Student Exchange Visitor Information System (SEVIS) program without violating FERPA.

Disclosures in response to subpoenas or court orders

FERPA permits schools to disclose education records, without the student's consent, in order to comply with a lawfully issued subpoena or court order.

In most cases, the school must make a reasonable effort to notify the student who is the subject of the subpoena or court order before complying, so that the student may seek protective action. However, the school does not have to notify the student if the court or issuing agency has prohibited such disclosure.

A school may also disclose information from education records, without the consent or knowledge of the student, to representatives of the U.S. Department of Justice in response to an *ex parte* order issued in connection with the investigation of crimes of terrorism.

Documenting the disclosure of information

Except as noted below, school must keep a record of each request for access and each disclosure of personally identifiable student information. The record must identify the parties who requested the information and their legitimate interest in the information. This record must be maintained in the student's file as long as the educational records themselves are kept.

FERPA RESPONSIBILITIES AND STUDENT RIGHTS

A school is required to—

- ✓ annually notify students of their rights under FERPA;
- ✓ include in that notification the procedure for exercising their rights to inspect and review education records; and
- ✓ maintain a record in a student's file listing to whom personally identifiable information was disclosed and the legitimate interests the parties had in obtaining the information (does not apply to school officials with a legitimate educational interest or to directory information).

A student has the right to—

- ✓ inspect and review any education records pertaining to the student;
- ✓ request an amendment to his/her records; and
- ✓ request a hearing (if the request for an amendment is denied) to challenge the contents of the education records, on the grounds that the records are inaccurate, misleading, or violate the rights of the student.