

FERPA Policy FAQs – Faculty/Staff

1. What is FERPA?

The Family Educational Rights and Privacy Act of 1974 (FERPA) is a Federal law that helps protect the privacy of student education records. FERPA provides students the right to: 1) inspect and review their education records; 2) seek to amend those records; and 3) limit disclosure of information from their education records except in certain circumstances. FERPA applies to all institutions that are the recipients of federal aid administered by the Secretary of Education.

2. Who does FERPA cover?

FERPA provides protection for any student who is or has been in attendance at the University and regarding whom the University maintains education records.

3. What about after a student graduates?

FERPA provides privacy protection for all education records maintained while an individual was a student attending the University. FERPA privacy protections continue to apply to a student's educational records even after the student graduates and throughout the student's lifetime.

4. What qualifies as a student education record under FERPA?

Any type of record, including email, containing information directly relating to a student and maintained by an educational institution, or a party acting on behalf of an institution, qualifies as an education record. Examples of an Education Record include:

- Biographical information
- Grades, test scores, evaluations, courses taken, and academic specialization
- Course work including papers and exams, class schedules, as well as written, email or recorded communications that are a part the student's of the academic record
- Disciplinary records
- Students' financial and financial aid records

5. What if information about a student is contained in my own personal notes?

A school official's personal record about a student is not protected under FERPA as long as that record is used only as a memory aid for that particular official and the record:

- Is not shared with others;
- Is not put in the student's file;
- Does not contain information provided directly by the student; and
- Is not used to make decisions about the student

These "sole possession" records are excluded from the definition of education records, and a student is not entitled under FERPA to access such records.

6. When may information from a student's education record be disclosed?

As a general rule, under FERPA, the University and its employees are not allowed to provide access to nor disclose any personally identifiable information from a student's education record without a signed and dated written consent of the student.

However, there are several exceptions to FERPA's general rule. By way of example, the University and its officials have the discretion – but are not required – to disclose information from a student's education records, without the student's written consent, under the following circumstances:

- 1) To certain University officials of the University who have a legitimate educational interest in the information;
- 2) To the parent(s) of a dependent student (i.e., student claimed as a dependent on a parent's federal income tax return);
- 3) To officials of other institutions in which a student seeks to enroll or has enrolled, but only for purposes related to the student's enrollment;
- 4) To persons or organizations providing a student's financial aid (does not include parents);
- 5) To accrediting agencies carrying out their accreditation function;
- 6) As required to comply with a judicial order or subpoena;
- 7) In connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals; or
- 8) As otherwise permitted by law (check with the Office of General Counsel first).

7. What is "directory information," and when may a student's directory information be disclosed?

The University designates certain information that would not generally be considered harmful or an invasion of privacy if disclosed as "directory information." At its discretion, the University may disclose directory information about a student without the student's permission in accordance with the provisions of FERPA. However, the University provides each student the option of restricting the directory information that the University can disclose about the student without the student's prior written consent. A student may exercise this option with respect to the student's addresses and phone numbers through the ND Roll Call process. If a student wishes to restrict any or all other categories of directory information that the University may disclose about the student without the student's prior written consent, the student must contact the Office of the Registrar for further instructions. While students may opt out of directory information disclosure, this right to opt out does not include the right to refuse to wear, or otherwise disclose, a unique student identification (ID) number that the University may require. With regard to former students, the University will honor any valid request to opt-out of disclosure of directory information made in the last semester the student was in attendance, unless the student rescinds the opt-out request.

8. What is "personally identifiable information?"

Personally identifiable information is data or information used for a purpose other than directory information which includes:

- Name of the student, the student's parents or other family members
- Student's address
- Personal identifier such as a social security number or student ID number
- Information that, alone or in combination, is linked or can be linked to a specific student that allows a reasonable person in the school community to identify the student with reasonable certainty

9. Does student consent always have to be written, signed, and dated? Is receiving an email from a student enough for consent?

Yes, student consent must be written, signed, and dated. A student may email his/her consent, but the email must always be verified by separately emailing the student back at his/her official email account of record with the University and waiting for a reply from the student at that email account with explicit consent to disclose the student's education record.

10. When can I share information from a student education record with another University colleague?

You can always share information from a student's education record with another University colleague when the student has consented in writing to such a disclosure.

If the student has not consented to a specific disclosure, information from the student's education record can still be shared with certain "school officials" who also have a "legitimate educational interest" in the information.

A school official has a legitimate interest if the official needs to review and education record in order to fulfill his or her professional responsibilities for the University.

The University has designated the following groups of people as school officials: 1) a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); 2) a person, company, or organization with whom the University has contracted as its agent to provide a service instead of using University employees or officials (such as an attorney, auditor, or collection agent); 3) a person serving on the Board of Trustees; or 4) a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

In addition, you may also share information from a student's education records with other University colleagues (and others outside the University, including the student's parents) in the event of a health or safety emergency, where such disclosure is necessary to protect the safety of the student or others.

11. When can I share information from a student education record with the student's parents?

You may, but are not required to, share information with parents if you have a signed and dated written consent from the student. If student has not provided written consent to a disclosure then, under FERPA, University employees are permitted, but not required, to share education records with parents of students when (1) the student in question is a dependent for federal income tax purposes, or (2) in the case of a health or safety emergency. Faculty and staff who wish to discuss a student's education records with the student's parents should contact the Office of General Counsel if there are any concerns about whether such a disclosure is permissible.

12. How do I know if a student is a dependent of his/her parent before I share information from the student's education record?

An FERPA channel can be found through InsideND that will state whether or not a student has identified themselves as a dependent of his or her parent for federal income tax purposes. To access this channel, log into InsideND and search for the "FERPA Dependent Status Tool for Advising." You can enter the channel by clicking on the blue FERPA icon. Once in the channel, enter either the NDID or Netid of the student and hit the search button. If the box next to the statement that reads "I certify that my parents claim me as a dependent for federal income tax purposes" is checked, then University officials may, but are not required to, share information from the student's education record with the parent. Any concerns regarding a student's dependent status can be addressed to the Office of General Counsel.

13. As a faculty member, how can I post student grades for my class and still be in compliance with FERPA policy?

You may post student grades by obtaining consent forms at the beginning of class. You may not publish grades for those who don't consent. A sealed envelope with a student's grade can be provided.