

FERPA Refresher



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Overview

- Family Educational Rights and Privacy Act (FERPA) is a federal law that:
 - protects students' education records from being disclosed without consent and
 - permits students to have access to their own education records
- University Policy 402, Student Records
 - explains how FERPA applies on the UNC Charlotte campus
 - <http://legal.uncc.edu/policies/up-402>



Student Rights Under FERPA

- Students' FERPA rights:
 - To inspect their education records;
 - To prevent disclosure of their education records;
 - To seek amendment to their education records if believed to be inaccurate or misleading;
 - To be notified of their privacy rights under FERPA; and
 - To file a complaint with the U.S. Department of Education concerning an alleged failure by the university to comply with FERPA.



Who is covered?

- Who is covered by FERPA?
 - Living students currently attending or who have attended at any time in the past, and only to information collected about them while they were attending (or information gathered post-attendance that is directly related to the students' attendance).
- NC Public Records Act treats records of applicants (whether admitted or not) as confidential even though that is not required by FERPA



What is covered?

- What is an "education record" according to FERPA?
 - Information that is directly related to the student and
 - Maintained by the university.



"Maintained and "Directly Related"

FPCO Interpretation

Testimony of FPCO Director LeRoy Roaker, U.S. Department of Education Safe And Drug-free Schools And Communities Advisory Committee Meeting, February 21, 2007:


"Virtually anything that is maintained at a public school on a student that is identifiable to the student is going to be an education record. This includes things like handwriting, video/audio tapes, computer media, microfilm, microfiche. Any means by which those records are maintained.

To be directly related means in some way it's going to be personally identifiable to that student. Personally identifiable includes the student's name, a social security number, a student ID number. Also includes other information to make the student's identity easily traceable so if you've got something where information is de-identified, then it's not directly related."




Education Records

- What is not an education record?
 - Campus police records
 - Employment records (unless dependent on status as student)
 - Medical/counseling records
 - Non-circulating faculty or staff records made for personal use
 - Peer-graded assignments BEFORE collected by instructor
 - Certain alumni records



Directory Information


- Directory information is exempt from FERPA confidentiality requirements
- “Directory information” at most schools:
 - student’s name, local and permanent address, email address, telephone number, date and place of birth, class, major field of study, dates of attendance, enrollment status, degrees and awards (including scholarships) received, participation in officially recognized activities and sports, weight and height of members of athletic teams, and the most recent previous educational agency or institution attended.
- Students may opt out (privacy hold)



Directory Information


Photographs, videos, or other media containing a student’s image or likeness and University-issued student electronic mail addresses are designated by UNC Charlotte as “limited use directory information” and generally are only available for official University use.

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Release of Education Records

- When may education records be released to third parties?
 - directory information (unless privacy hold!)
 - written consent of student
 - judicial order/subpoena
 - university officials with legitimate educational interest
 - parents under if student is dependent
 - other circumstances



Written Consent

- Written consent of student
 - Signed
 - Dated
 - Must include:
 - Specific records to be disclosed
 - Purpose of disclosure
 - Identity of person to whom records will be disclosed
- Judicial orders/subpoenas
 - Contact the Office of Legal Affairs



School Officials

- University officials with a legitimate educational interest
 - Questions to ask:
 - Does the person have a "legitimate educational interest"?
 - Has the person clearly articulated the interest?
 - Is the interest actual and concrete?
 - Is the interest educationally related?
 - Is the interest narrow in scope?
 - Has the person been informed as to restrictions re: dissemination to others?



Major Concepts

- Major FERPA concepts –
 - Most records at the university relating to students are protected as education records under FERPA.
 - Generally speaking, written consent of the student is required to release education records outside of the university.
 - When in doubt, ask.



Practical Advice

- Always the possibility that student will request access to written information, so think about that when writing notes and emails
- Don't talk about student with other staff or faculty who do not have a need to know
- Moral of the story – be thoughtful, considerate, and reasonable when handling student information



Letters of Recommendation

- Without written consent:
 - "He's a hard worker" = okay (based on your perception, not based on records maintained by university)
 - "As his academic advisor, I've noticed that he is a hard worker" = not okay (advisor relationship with student is not directory information)
 - "He is a hard worker; that's why he got three A's this semester." = not okay (grades are education records)



Letters of Recommendation

- With written consent:
 - Permitted to disclose information from education records
 - to person/entity specified on consent form
 - for the purpose specified on consent form
 - Remember that if the student does not affirmatively waive his/her right to inspect, student has can review the recommendation you write about him/her



Parents

- FERPA rights belong to student, not parents
- Some ways by which parents can receive information from education records
 - With student's written consent;
 - Through Guest Access Portal;
 - If student is dependent for tax purposes;
 - In a health or safety emergency; or
 - If the information is based on personal knowledge or observation of student, not based on protected record information




Parents (cont.)

- Some parents can be good influences to help student succeed, so don't automatically cut off communications for fear of FERPA
- However, if conversation gets difficult or unproductive, you can end it
 - Signed consent form permits (but does not require) you to talk with parents
- If FERPA vs. health/safety of student, always err on side of health/safety




Examples

- A concerned father calls and shares their student is diagnosed with depression. He asks that you check on the student and let them know how his child is doing both in class and outside of class. What should you do? What can you share?
- A parent calls and wants to know why you aren't following a specified university process. You know the student well and have helped on multiple occasions, but the student is unresponsive and doesn't follow through with what she needs to do in order to allow the process to move forward. What do you tell the parent?
- Honor Society writes dean and asks for names and addresses of all students in college majoring in Biology and who have achieved 3.0 average.
- Disclosure to parents/third parties when student is present.
- You have a valid written consent from a student to release her information, but in your judgment, you don't think it's in the student's best interest to make the release.
- Leaving student information on desk or computer screen.




Examples (cont.)

- Woman says, "I am X's wife and he asked me to pick up his transcript."
 - What if she has a written note from the husband/student authorizing delivery to his wife?
- FBI agent presents badge and says that he is investigating a crime and it is of the utmost urgency that he see student's records immediately.
- Two students are accused of cheating off of each other during an exam after a third student reports the behavior. One of the accused students requests to inspect any emails related to the situation.




Guest Access Portal

- The Guest Access Portal allows students to grant a guest, such as a parent or spouse, access to **view** specific pieces of their educational records in Self-Service Banner.
- Students enter first name, last name, and e-mail address for designated guests. An automatically generated e-mail is then sent to the guest to allow them to set up their account.
- Students can also set up a guest passphrase to be used when guests make information requests outside of the Guest Access Portal.




Guest Access Portal

- By default, an authorized guest has access to a student's record for four years, however the student can modify the start and stop dates.
- Students can specify which types of records a guest can view (these correspond with Banner Self-Service pages). Examples: Account Summary, Advising Transcript, Final Grades, Financial Aid Awards, Holds, Student Schedule
- The Guest Access Portal is NOT a blanket authorization allowing access to ALL the student's educational records.




Guest Access Portal

- Students can add and update guests anytime in Banner Self-Service.
- The University does not allow students to delete a guest, however students can stop access for a guest by ending the access date.
- University staff cannot add or change guest access.




Guest Access Portal

- While the Guest Access Portal allows parents/guests to view your selected educational records, it doesn't allow them to make any changes.
- Authorized Payers are permitted to view student account information and make payments on the student's behalf.



Resources

- Office of Legal Affairs – x75732
- Office of the Registrar – x75505
- <http://legal.uncc.edu/legal-topics/ferpa>
- <http://registrar.uncc.edu/guest-access-portal-and-ferpa>



Questions?