

Public Records Act/ Family Educational Rights and Privacy Act (FERPA)

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UNC CHARLOTTE

Public Records Definition

- *N.C. Gen. Stat. § 132-1 et seq.*
- *A “public record” is any documentary material or artifact “regardless of physical form or characteristics . . . made or received . . . in connection with the transaction of public business by any agency of North Carolina . . .”*



Public Records

Responding to Requests

- *Must allow inspection*
- *May not demand a reason*
- *Must make copies*
 - *Actual costs*
 - *AND extensive services*
- *Must respond “as promptly as possible”*
- *Don’t have to create, but...*
 - *Whatever format we can provide them*
 - *Must redact confidential info*



Campus Safety and Security Committee Penalties

- *Bad attitude = bad news*
 - *Failure to give access to public records may result in award of attorneys' fees to the requester*
 - *Individuals can be charged with a misdemeanor*



Public Records Exceptions

- *No exceptions for any specific TYPE of data*
- *Exceptions are based on NATURE of data:*
 - *Trade secrets (NCGS 66-152)*
 - *Certain PII (passwords, date of birth, signatures, SSNs, DL #s, admissions information)*
 - *Ongoing criminal investigations*
 - *“Sensitive public security information”*
 - *Personnel files (EXCEPT NCGS 126-23)*
- *Federal law trumps*



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Family Educational Rights and Privacy Act of 1974



FERPA

Student Rights

- *The right to inspect education records;*
- *The right to prevent disclosure of education records;*
- *The right to seek amendment to education records;*
- *The right to be notified of privacy rights under FERPA; and*
- *The right to file a complaint with the U.S. Department of Education.*



FERPA

Who is covered?

- *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).*
- *Public Records Act treats records of applicants (whether admitted or not) as confidential; FERPA does NOT require this.*



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What is a student education record?

Information

Personal information (other than Directory Information)

Grades

Schedules

Disability status

Academic standing

Social Security Number

Student ID numbers

Format

Essentially any format that exists.



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What is NOT a student education record?

- *Law enforcement records*
- *Employment records*
 - *Unless dependent on status as student*
- *Professional records*
 - *Mental or Physical Health*
- *Non-circulating faculty or staff records made for personal use*
- *Peer-graded assignments BEFORE collected by instructor*
- *Certain alumni records*



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When may education records be released to third parties?

- Signed, written consent of the student
- Directory Information (at UNC Charlotte) is: 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.
- School officials with a legitimate educational interest
- Accrediting organizations
- Health and safety emergencies
- Other parties as defined by FERPA



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Examples

- *Honor Society writes dean and asks for names and addresses of all students in college majoring in XXX and who have achieved 3.0 average.*
- *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.*
- *Disclosure to parents/3rd parties when student is present?*
- *Disclosures of observations not obtained from education records?*
- *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.*
- *Request for a student's application for admission before the student has been admitted or before the student has enrolled.*



Stump the Lawyer

