

FERPA:

An Introduction to
the Family Educational
Rights and Privacy Act

Introduction

- ▶ This is an overview of FERPA and is not meant to answer every question you may have.
- ▶ University policies have been developed to comply with FERPA.
- ▶ If you have questions about a situation, contact:
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Family Educational Rights and Privacy Act of 1974

FERPA is the Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment. Statute: 20 U.S.C. 1232g; Regulations: 34 CFR Part 99. The intent of the Act is to protect the rights of students and to insure the privacy and accuracy of education records. The Act applies to all institutions that are recipients of federal aid administered by the Secretary of Education.

FERPA: What You Need to Know

- ▶ Institutions may **not** disclose information from a student's education records **without that student's written consent** (with a few exceptions).
- ▶ **You** may be asked for information, so you need to know what, about whom, to whom, and when information may be released.

Who is protected by FERPA?

- ▶ Students who are or have been “in attendance” at the institution, in person or by correspondence, regardless of their age or status in regard to parental dependency are protected by FERPA.
- ▶ Students who have applied to but have not attended an institution, and deceased students, do not come under FERPA guidelines.

How is 'in attendance' defined?

- ▶ For FERPA purposes, UVa considers a student to be 'in attendance' once he/she has enrolled in courses for his/her initial term of enrollment.

A Student's Primary Rights Under FERPA

- ▶ The right to inspect and review her/his education records.
- ▶ The right to request an amendment to her/his education record that she/he believe to be inaccurate or misleading.
- ▶ The right to consent to disclosures of personally identifiable information contained in her/his education records, except to the extent that FERPA authorizes disclosure without consent.
- ▶ The right to file a complaint with the United States Department of Education concerning alleged failures to adhere to FERPA.

What is an Education Record?

An 'education record' is any record that is:

- ▶ Directly related to a student; and
- ▶ Maintained by an educational agency or institution, or by a party acting for the agency or institution.

What is a 'record'?

A record is any information recorded in any way, including, but not limited to:

- ▶ Handwriting
- ▶ Print
- ▶ Computer media
- ▶ Video or audio tape
- ▶ Film
- ▶ Microfilm or microfiche

What is not considered an education record?


- ▶ Sole possession records or private notes held by a school official that are not accessible or released to other personnel.
- ▶ Law enforcement or UVA security records that are solely for law enforcement purposes and maintained by the law enforcement unit.
- ▶ Records relating to individuals who are employed by the institution (unless the employment is contingent on their status as a student).

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What is not considered an education record (continued)?

- ▶ Records relating to treatment provided by a physician, psychiatrist, psychologist, or other recognized professional and disclosed only to individuals providing treatment.
- ▶ Records of an institution that contain information about an individual obtained only after that person is no longer a student at the institution, i.e. alumni records.

What can I release?

- ▶ Directory information may be released, unless the student has restricted its release.
- ▶ The education record of a student is flagged in SIS for students who do not want their directory information released to the public. Students must make a written request to have their education records flagged.
- ▶ If a student has requested a restriction of the release of directory information, a Confidentiality Warning will appear in SIS with a window-shade icon: 
- ▶ You must answer third party inquiries about this student with: “I have no information to release on this individual.”

Directory Information

- ▶ Directory Information is information contained in an education record of a student that generally would not be considered harmful or an invasion of privacy, if disclosed.
- ▶ It may be released to third parties without the consent of the student, unless the student has provided a written request to UREG (Office of the University Registrar) to restrict the release of Directory Information.

University of Virginia Directory Information:

- ▶ Name
- ▶ Home and school address
- ▶ Home and school telephone number
- ▶ E-mail address
- ▶ UVa Computing ID
- ▶ Date of birth (It is the practice of the University not to release a student's date of birth except as required by law or as a validation of positive identification of a student when furnished by a person making an inquiry.)

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University of Virginia Directory Information (continued):

- ▶ Place of birth
- ▶ Country of citizenship
- ▶ Major field of study
- ▶ School of enrollment
- ▶ Location of attendance
- ▶ Full-time/part-time status
- ▶ Level and year in school
- ▶ Medical Residency placement
- ▶ Expected Graduation Date

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University of Virginia Directory Information (continued):

- ▶ Participation in officially recognized activities and sports
- ▶ Weight and height of members of athletic teams
- ▶ Dates of attendance
- ▶ Candidacy for degree
- ▶ Degrees, honors, scholarships and awards received
- ▶ Most recent previous educational agency or institution attended
- ▶ Names of a student's parents or guardians
- ▶ Any unique identifying number created for the purpose of compiling, releasing, or transmitting directory information

What can I NOT release?

- ▶ Student ID (usually the student's social security number)
- ▶ University ID
- ▶ Race/Ethnicity
- ▶ Gender
- ▶ Grades
- ▶ Other 'personally identifiable' information without written consent, unless covered by an exception.

How can I release non-directory information?

- ▶ To release any information, other than directory information, to someone other than the student, the student must have given prior written consent.
- ▶ The consent must:
 - ▶ Specify the records to be disclosed
 - ▶ State the purpose of the disclosure
 - ▶ Identify the party or class of parties to whom the disclosure may be made
 - ▶ Include a signature and date

When is the student's consent not required to disclose information?

When the disclosure is:

- ▶ Releasing directory information;
 - ▶ To school officials who have legitimate educational interest;
 - ▶ To federal, state, and local authorities involving an audit or evaluation of compliance with educational programs;
 - ▶ To organizations providing financial aid;
 - ▶ To organizations conducting studies on behalf of educational institutions;
 - ▶ To accrediting organizations;
- continued...

When is the student's consent not required (continued)?

- ▶ To comply with a judicial order or subpoena;
- ▶ In a health or safety emergency;
- ▶ Releasing the results of a disciplinary hearing to an alleged victim of a crime of violence;
- ▶ To a parent of a student under the age of 21 who has violated University regulations pertaining to the use or possession of alcohol or a controlled substance

What is a 'legitimate' educational interest?

- ▶ Legitimate educational interest is when a school official engaged in instructional, supervisory, advisory or administrative functions within the University requires a student's education records in order to perform his or her duties for the institution.

What about subpoenas?

- ▶ UREG (Office of the University Registrar) has a procedure for handling subpoenas of student records.
- ▶ When a subpoena requests information about a student, the institution must make a reasonable effort to notify the student of the subpoena prior to complying with it.
- ▶ Prior notice is NOT required when responding to:
 - ▶ A federal grand jury subpoena, which specifies that the student not be informed of the existence of the subpoena;
 - ▶ A law enforcement subpoena which specifies the same.

What if a student wants to inspect a record?

- ▶ The institution must comply within 45 days.
- ▶ The institution is required to provide copies of a record only if failure to do so would effectively deny access, such as if the student does not live within commuting distance.
- ▶ Do NOT destroy records if a request for access is pending.
- ▶ Contact UREG (Office of the University Registrar) if you have questions or concerns.

What is the penalty for violating FERPA and how would anyone know?

- ▶ Students may file complaints with the U.S. Department of Education.
- ▶ The Family Policy Compliance Office (FPCO) is authorized by the Secretary of Education to investigate, process, and review complaints and violations under FERPA.
- ▶ If a complaint is found to be valid, the institution may lose Department of Education funds, such as federal financial aid.

FERPA Tips

- ▶ Faculty and staff have access to students' education records only for legitimate educational purposes in performing his or her duties for the University. Access to education records should not be used for any other purpose.
- ▶ If a University employee is ever in doubt, he/she should not release any information from student records without first contacting UREG (Office of the University Registrar) for guidance.

FERPA Tips (continued)

- ▶ Grades may not be released in any form to third parties, without written consent, and should not be posted in any form that would make the students' identity easily traceable. This includes posting grades by Social Security Number or partial Social Security Number. Grades should only be posted using a randomly assigned identifier.

FERPA Tips (continued)

- ▶ University employees may not discuss the grades or academic progress of a student with that student's parents, or any other third party, without the written consent of the student. In addition, University officials may not provide confidential information to a student's spouse without the written consent of the student.
- ▶ Students should only be granted access to their own records after they have presented appropriate picture identification, such as a University ID card or valid driver's license.

FERPA Tips (continued)

- ▶ University employees should not share their University user ID and password with any other individual.
- ▶ University employees should not leave printed or electronic confidential student records unattended where they may be easily accessed by another.
- ▶ Electronic student record data should be stored on a password-protected medium, and printed data should be stored in a secure location.

Strategies for dealing with upset individuals and FERPA

- ▶ **Listen.** Make sure that you have heard and understand the entire story before you respond.
- ▶ **Empathize.** Acknowledge that FERPA may seemingly be making this situation more difficult.
- ▶ **Tell them what you can and cannot do, and WHY.** (Use your knowledge of FERPA).
- ▶ **Don't pull up the screen where the information is contained so that you are not tempted to share information you should not.**

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Strategies for dealing with upset individuals and FERPA (continued)

- ▶ **Use information the caller is providing, with hypothetical situations and policies, to formulate answers.**
- ▶ **Try to speak directly to the student.**

Resources for FERPA

- ▶ Carol 'Stash' Stanley, 982-2791, stash1@virginia.edu
- ▶ Sheila F. Tolley 924-6868, stolley1@virginia.edu
- ▶ United States Department of Education, Family Compliance Office:
<http://www.ed.gov/policy/gen/guid/fpco/ferpa>

FERPA:

The Family Educational
Rights and Privacy Act