

FERPA

- Family Education Rights and Privacy Act of 1974 -

FERPA TRAINING FOR FACULTY, STAFF & STUDENT EMPLOYEES

This information is intended to provide general training about FERPA. It is strongly suggested that all campus personnel be as conservative as possible in carrying out these rules, and protective of students' privacy rights when interpreting these guidelines.

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

A Federal law designed to protect the privacy of education records, to establish the right of students to inspect and review their education records, and to provide guidelines for the protection of inaccurate and misleading data through informal and formal hearings.

Definitions of Terms for Admissions and Records. Washington, D.C.: AACRAO, 1980, p. 28.

This act is enforced by the Family Policy Compliance Office, U.S. Department of Education, Washington, D.C.

WHAT IS AN EDUCATION RECORD?

- Any record, with certain exceptions, maintained by an institution, that is directly related to a student or students. This record can contain a student's name, or information, from which an individual student or students can be personally (individually) identified.
- These records include files, documents, and materials in whatever medium (handwritten, tape, disks, film, microfilm, microfiche) which contains information directly related to students and from which students can be personally (individually) identified.

"PERSONALLY IDENTIFIABLE" DATA OR INFORMATION WHICH INCLUDES:

- The name of the student, the student's parent, or other family members
- The student's campus or home address
- A personal identifier (such as a social security number or student number)

- A list of personal characteristics or other information that would make the student's identity easily traceable

WHAT AN EDUCATION RECORD IS NOT!

- "Sole Possession" notes
- Law-enforcement unit records
- Records maintained exclusively for individuals in their capacity as employees
- Records of individuals who are employed as a result of their status as students (work-study) are education records.
- Doctor-patient privilege records
- Alumni records

"SOLE POSSESSION NOTES"

Are made by one person as an individual observation or recollection, are kept in the possession of the maker, and are only shared with a temporary substitute.

- this term has always been narrowly defined.
- notes taken in conjunction with any other person are not sole possession notes (counselor's notes, interview notes).
- sharing these notes with another person, or placing them in an area where they can be viewed by others makes them "education records" and subject to FERPA.
- best advice: if you don't want it reviewed, don't write it down.

DIRECTORY INFORMATION

- It is information not normally considered a violation of a person's privacy
- Students must be notified of the items of directory information.
- Students must be given the opportunity to request that directory information not be released. This right of nondisclosure applies to directory information only.

Huntsville Bible College has designated directory information, according to the Family Educational Rights and Privacy Act of 1974 to be the student's:

- names
- dates of attendance
- mailing and permanent addresses
- degrees, honors, and awards received and dates
- local telephone number
- previous educational institution attended
- campus e-mail address
- enrollment status (Full-time/Part-time)
- class (Freshman, Sophomore, etc.)
- dates and place of birth
- major field of study
- names of student tutors and teaching/research assistants
- participation in officially recognized activities/sports
- weight and height of members of athletic teams
- class seating assignments

WHAT CANNOT BE INCLUDED AS DIRECTORY INFORMATION?

According to FERPA, directory information can never include:

- race
- grades
- gender
- G.P.A.
- social security number
- country of citizenship
- religion

It is important to remember that "directory information" be defined as such.

If a data element isn't defined as "directory information" it isn't directory information and can only be released if the student's written permission is obtained or the release can be justified under one of the exceptions to students' written permission found in FERPA.

EXCEPTIONS TO REQUIRING WRITTEN PERMISSION FROM STUDENTS

1. When students request information from their own record - positive proof of identification is all that is needed.

2. Authorized representatives of the following, for audit, evaluation, or enforcement of federal and state supported programs:
 - Comptroller General of the United States.
 - The Secretary of the United States Dept. of Education.
 - U.S. Attorney General (Law Enforcement only.)
 - State Educational Authorities
3. Personnel within the institution determined by the institution to have a legitimate educational interest.
4. Officials of other institutions in which the student seeks to enroll on condition that the issuing institution makes a reasonable attempt to inform the student of the disclosure.
5. Persons or organizations providing to the student financial aid, or determining financial aid decisions.
6. Organizations conducting studies to develop, validate, and administer predictive tests; to administer student aid programs; or to improve instruction.
7. Accrediting organizations carrying out their accrediting functions.
8. Parents of a student who have established that student's status as a dependent - IRS Code of 1986, Section 152.
9. Persons in compliance with a judicial order, or a lawfully issued subpoena, provided that the institution first make a reasonable attempt to notify the student. EXCEPTION: If the subpoena is issued from a federal grand jury, or for law enforcement purposes, and orders the institution not to notify the student.
10. A court, if the student has initiated legal action against the institution, or the institution has initiated legal action against the student.
11. Persons in an emergency, if the knowledge of the information is NECESSARY to protect the health and safety of the student, or other persons.
12. An alleged victim of any crime of violence or the results of any institutional, disciplinary proceeding against the alleged perpetrator of that crime, with respect to that crime.
13. Veteran's Administration officials in response to requests related to VA programs.
14. Representatives of the Immigration and Naturalization Service, for purposes of the coordinated interagency partnership regulating CIPRIS.
15. Parents of a student, under the age of 21, regarding a violation of any law, at any level, or institutional policy or rule governing the use of alcohol, or a controlled substance.

- Does not supersede any state law that prohibits disclosure of this information.
16. Certain education records may be released to a victim of an alleged perpetrator of a crime of violence or non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution.

WHEN SHARING INFORMATION WITH A THIRD PARTY

Institutions are responsible for informing third parties to whom personally identifiable information is released that recipients are not permitted to disclose the information to others without the written consent of the students.

All institutions are required to maintain records of requests and disclosures of personally identifiable information to third parties. These records will include the names and addresses of the requestor and his/her indicated interest in the records. These records of requests and disclosures are part of the student's education records and must be retained as long as the education records to which they refer are maintained by the institution.

SCHOOL OFFICIALS

FERPA requires that this must be defined:

1. School officials may obtain information from education records without obtaining prior written consent,
2. The criteria for determining who will be considered school officials and
3. What "legitimate educational interests" will entitle school officials to have access to education records.

At Huntsville Bible College, A SCHOOL OFFICIAL IS:

- Employed by the college in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff)
- A company with whom the College has contracted, e.g., attorney, auditor, collection agent
- Serving on the Board of Directors
- A student that is serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

LEGITIMATE EDUCATIONAL INTEREST

FERPA requires that this must be defined:

1. School officials within the institution may obtain information from education records without obtaining prior written consent,
2. The criteria for determining who will be considered school officials and
3. What “legitimate educational interests” will entitle school officials to have access to education records.

LEGITIMATE EDUCATIONAL INTEREST

- be demonstrated need-to-know by those officials of an institution who act in the student's educational interest, including faculty, administration, clerical and professional employees, and other persons who manage student record information.
- Although FERPA does not define "legitimate educational interest," it states that institutions must specify the criteria for determining it.

LEGITIMATE EDUCATIONAL INTEREST AT HBC

A school official has a legitimate educational interest if the official needs to review an education record to fulfill his or her professional responsibility.

Right to Access Their Education Record

FERPA provides students access to their education records. They have the right to inspect and review within 45 days of the request to inspect.

FERPA INCLUDES LIMITATIONS ON STUDENTS' RIGHTS TO REVIEW

FERPA includes limitations on the right to inspect that include:

- Parental financial information
- Confidential letters and recommendations to which the student has waived his/her right of inspection
- Education records containing information about more than one student
- The institution must permit access to that part of the record that pertains only to the inquiring student.

WHEN RELEASING ANY NON-DIRECTORY INFORMATION TO A THIRD PARTY

Institutions shall obtain written consent from students before disclosing any personally identifiable information from their education records. The written consent must:

1. Specify the records to be released.
2. State the purpose of the disclosure.
3. Identify the party or parties to whom disclosure may be made.
4. Be signed and dated by the student within the last year.

WHAT ABOUT PARENTS?

- When a student reaches the age of 18 or begins attending a postsecondary institution regardless of age, FERPA rights transfer to the student.
- Parents may obtain directory information only at the discretion of the institution.
- Parents may obtain non-directory information (grades, GPA, etc.) only at the discretion of the institution and after it has been determined that their child is legally their dependent.
- Parents may also obtain non-directory information by obtaining signed consent from their child.

STUDENT PERMISSION FOR PARENTAL ACCESS TO EDUCATION RECORDS

- A new form developed by the Office of admissions, allows students to give blanket approval for those listed as their mother and father on the access to their education record.
- Evidence of student permission can be viewed in the Admissions office.
- Check for parent designation in the admissions office, (only those listed as mother or father may be given information from the record).
- Verify the inquirer is the parent - driver's license if in person, verification questions if calling.
- If no coding exists in the records, refer to previous methods to release student data to parent:
- A signed release by the student.
- Copy of the most recent Federal Income Tax Form (IRS Code of 1954, section 152) indicating student as a dependent.

- in compliance with a subpoena.

ACCESS TO RECORD FOR A SPOUSE

- The spouse has no inherent rights under FERPA to access the student's education record.
- The spouse must produce written consent from the student for access to the information.

DISCLOSURE OF DIRECTORY INFORMATION:

Institutions may release without written consent those records identified as public or directory information for students who are currently enrolled with the following conditions:

1. That the institution informs the students' categories designated as directory information.
2. That the students be given an opportunity to refuse disclosure of any or all categories.
3. That the students be given a reasonable amount of time in which to state such refusals in writing.

PRIVACY

- Students have the right to prevent disclosure of directory information to the public.
- The form can be completed for this purpose at the Office of Admissions.
- In the event privacy is selected, it is noted in the students' records, and no information may be released on the student. Callers/inquirers will be told, "I have no information on this individual."

LIMITED PRIVACY

- Limited Privacy was created because Privacy is so restrictive.
- Limited privacy allows us to share enrollment information, etc. with callers, but does prevent the release of enrollment and address information to: off-campus requestors who desire lists and labels of enrolled students.

- Again, the form can be obtained in the Office of Admissions.

POSTING OF GRADES BY THE FACULTY

HBC will no longer allow any public posting of grades for students with any part of the student identification number. Students' grades may be posted without written permission if they are not posted in a personally identifiable manner. If grade posting strips are created with random identifiers, they must not appear in alphabetical order according to students' names.

HBC requires all students to check their grades in CampusSIS which is the student information database.

STUDENTS' RIGHTS AFTER LEAVING THE COLLEGE / UNIVERSITY

- Still have the right to inspect their records in a timely manner.
- Still have the right to a hearing to amend their education record. Still have a right to privacy protected by the institution. They do not, however, have a right to request non-disclosure of directory information.

THE AUTHORITATIVE SOURCE

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