



FERPA

Family Educational Rights and Privacy Act

2020

WHAT IS FERPA AND TO WHOM DOES IT APPLY?

- Federal law enacted in 1974 called "Family Educational Rights and Privacy Act"
- Purpose is to protect the privacy rights of student educational records and to ensure the accuracy of those records
- Applies to currently enrolled or formerly enrolled students (regardless of age or parental dependency status)
- Applies to all institutions that receive Department of Education funds

WHAT RIGHTS DOES FERPA AFFORD STUDENTS?

- Right to inspect and review the record (all parts with two exceptions)
- Right to request an amendment to the record that the student believes is inaccurate or misleading or violation of his/her privacy rights (recording error not substantive decision) and to request a hearing if request to amend is not granted
- Right to consent to disclosure of personally identifiable information

WHAT RIGHTS DOES FERPA AFFORD STUDENTS?

- Right to know what institution has designated as public/directory information and the right to request suppression of public/directory information
- Right to know that school officials may access records and the criteria for determining that a school official has a legitimate need to know the information
- Right to file a complaint with the Family Policy Compliance Office in the U.S. Dept. of Education

IS IT AN EDUCATION RECORD?

- Most records from which a student can be personally identified and which are maintained by the institution regardless of its form (e.g., handwritten, print, database, disk, email, files, graded materials, class lists, individual student class schedules, financial aid records)

WHAT IS NOT AN EDUCATION RECORD

- Information that is not recorded anywhere – only exists in your brain
- “Sole possession” records – only possessed by maker for use as a memory aid
- Law enforcement records – MTSU police reports naming students
- Employment records – employees who are also students
- Alumni records – records created after student is no longer in attendance



**If it is an education record,
can you disclose it?**

NO!

(Unless FERPA says you can)

DIRECTORY INFORMATION

Directory information includes the following information which may be provided to any requesting party per MTSU Policy 500 Access to Education Records:

- Student name
- City of permanent place of residence
- Photograph or video when related to a MTSU activity
- Birth year
- Major field of study
- Enrollment status (full-time, part-time, withdrawn)
- Student level (freshman, sophomore, etc.)
- Dates of attendance
- Degree status (expected graduation date and/or dates conferred)
- University recognized honors and awards and dates received
- Participation in officially recognized activities/sports, including weight and height of members of athletic teams
- Most recent educational agency or institution attended by the student

DIRECTORY INFORMATION

Continued

Directory information also includes the following information that may only be provided to requesters for a legitimate educational purpose or in relation to a MTSU activity per MTSU Policy 500 Access to Education Records:

- Email addresses (campus and personal)
- Mailing addresses (campus, primary, and permanent)
- University ID Number (M#)

DIRECTORY INFORMATION USE/RELEASE

- Must allow students opportunity to limit release of directory information
 - Registrar's office maintains records of all students who have requested non-disclosure.
 - On SPAIDEN, the Confidential box is checked when a request is received; this causes the "Warning: Information about this person is confidential" message to display in Banner.
 - In RaiderNet, on the Class List Summary and Class List with Student Detail links, a student who has requested non-disclosure will have "Confidential" after their name.
 - If you receive an inquiry about a student who has requested non-disclosure, your response is "There is no information available about this person."
 - If student has not requested non-disclosure, we may release directory information.

WHO CAN VIEW NON-DIRECTORY INFORMATION?

- The student always has access.
 - Mandatory – must allow the student to view
 - Two exceptions:
 - Financial records of parents
 - Confidential letters of recommendation

WHO CAN VIEW NON-DIRECTORY INFORMATION?

- Any outside party that has the student's written consent
 - Consent must:
 - Have a written signature and be dated;
 - Specify the records to be disclosed;
 - State the purpose of the disclosure; and
 - Identify to whom the disclosure can be made.
 - Permissive, do not have to release
 - Forward consents to Registrar's office, they will forward to University Counsel for review
 - Registrar will keep a copy of the consent in the education record

WHO CAN VIEW NON-DIRECTORY INFORMATION?

- “School officials” with a “legitimate educational interest”
 - “School officials”
 - MTSU or TBR employees
 - Contractors (with appropriate contractual language)
 - Participants on official committees (i.e., disciplinary committees)
 - “Legitimate educational interest” - often referred to as “need to know”
 - Interest in reviewing student education records for the purpose of performing assigned institutional research, educational or administrative function
 - Guiding principle – If you need the data to perform your job duties, you should have access to it.

WHO CAN VIEW NON-DIRECTORY INFORMATION?

- Parents of a dependent student as defined by the IRS code, who have claimed the student as a dependent on their most recent tax forms (must present a certified tax form)
- A person in response to a lawfully issued subpoena or court order
 - Must give notice to student, etc.
 - Send all subpoenas for education records to Registrar

OTHER EXCEPTIONS

- Health or safety emergency
- If the student sues MTSU or MTSU sues the student
- For audit/evaluation of educational programs (to Comptroller General of the U.S.; The U.S. Attorney General; The Secretary of the Dept. of Education; State and local educational authorities)
- To other schools where student is enrolled or wants to enroll
 - But only for purposes of the enrollment
 - Determine identity of person requesting, if via phone, i.e. ask the person to send you an e-mail from their school e-mail account

WHAT ABOUT PARENTS?

- Parents are considered a “third party” and do not have a right to student information (subject to the exception noted previously)
- May release directory information to them
 - But not if the student has opted out
- Refer all parental inquiries to the University College Advising Center/MT One Stop

WHAT IF A STUDENT SEEMS IN CRISIS?

- The health or safety emergency exception allows the release of private student data to any party determined to be able to assist the student
- Must document in the student's record what was released, to whom, and for what reason
- Consult with Registrar and University Counsel before determining to release information

GUIDING PRINCIPLES REGARDING PRIVATE STUDENT INFORMATION

- School officials shall not disclose personally identifiable information about a student nor permit inspection of those records without the student's written permission unless it is allowed in one of the exceptions mentioned
- You have a legal responsibility to protect confidentiality of student records
- Only access what you need to know to do your job
- Curiosity does not equal legitimate need to know

WHAT IF YOU INADVERTENTLY RELEASE PRIVATE DATA?

- Notify your supervisor, Registrar and University Counsel
- If possible, remove the material from public view

COMMUNICATING WITH STUDENTS

- E-mail should only be sent from a MTSU e-mail account to a MTSU e-mail account or within D2L.
- A student's e-mail address can be found on GOAEMAL in Banner, on the Class Email List in RaiderNet, or in the online directory.
- All e-mails are considered education records and subject to FERPA regulations.
- Grades can be sent to and from institutional e-mail accounts, including D2L, to individual students.

COMMUNICATING WITH STUDENTS

- You can use Twitter, Facebook, and other social media to communicate. However, be sure that you are not disclosing PII or any part of a student's education record.
- Be sure that any device you use to communicate with students or store student data is secure, i.e. your desktop/laptop computers, tablets, smart phones. Password protection is the easiest way to do this. Also remember to protect items like flash drives.

SCENARIO:

The adviser of a fraternity, who is a MTSU faculty/staff member, has asked for GPAs for all of their members in order to award scholarships and academic honors. Can you provide this information?

1. Is it an education record? Yes.
2. Is it directory information? No-GPA is not directory information.
3. Does FERPA allow you to provide it anyway? Yes, if the scholarship is a defined component of the organization's charter. A university-assigned advisor is a school official. The GPA information cannot be sent forward to the organization.

SCENARIO:

(A) A reporter for the DNJ wants to interview a student for a cover story on the wonderfulness of MTSU and wants to catch the student before his writing session. Can you provide the student's appointment time?

(B) What if you call the student and the student gives you permission to tell the reporter? Can you provide the student's class schedule?

1. Is it an education record? Yes.
2. Is it directory information? No. Class schedule is not directory information.
3. Does FERPA allow you to provide it anyway?
 - Situation A - Not without student consent
 - Situation B - Not without written consent
 - Best Answer - Let the student talk directly with the reporter

SCENARIO:

You are using a list of student names and M#s to verify attendance at writing sessions. Is this ok?

1. Is it an education record? Yes.
2. Is it directory information? A student's name is directory information but a M# is not.
3. Does FERPA allow you to provide it anyway? No.

SCENARIO:

A reporter for the DNJ calls the front desk and wants to know whether one of you is employed as a student worker. Can the front desk provide this information?

1. Is it an education record? Yes. Employment that is related to the student's status as a student is an education record.
2. Is it directory information? No. Student employment status is not directory information.
3. Does FERPA allow you to provide it anyway? No.

SCENARIO:

A government agent (local, county, state, federal) comes to your office and asks for a copy of a student's paper. The agent tells you that the paper is evidence in some sort of investigation. Can you release the record?

1. Is it an education record? Yes.
2. Is it directory information? No. A student's transcript is not directory information.
3. Does FERPA allow you to provide it anyway?
 - Is there a subpoena? If so, the agent needs to take the subpoena to the Registrar's Office.
 - If there is no subpoena, no exception applies, and the record remains confidential.

SCENARIO:

A parent calls and wants to know if their child has been coming to their writing center appointments. Can you give out that information?

1. Is it an education record? Yes.
2. Is it directory information? No.
3. Does FERPA allow you to provide it anyway?
 - No. While a student's enrollment during a certain term is directory information, attendance and specific daily records are not.
 - Always refer a parent to the University College Advising Center/MT One Stop for assistance. If a Partners in Education agreement is on file, you may be contacted by a UCAC/MT One Stop staff member for information.

SCENARIO:

You receive a frantic phone call from an individual who says that he is a student's father and must get in touch with her immediately because of a family emergency. Can you tell him when and where her next appointment is?

1. Is it an education record? Yes.
2. Is it directory information? No.
3. Does FERPA allow you to provide it anyway?
 - Unless health and safety exception applies, no.
 - Give the parent the contact information for the University College Advising Center/MT One Stop; they will immediately try to locate the student and give the message to contact the family member.

SCENARIO:

You receive an e-mail message from an off-campus employer asking for names and addresses for students with a GPA of 3.0 or better. They have good job information to offer. Can you help students get jobs by giving out that information?

1. Is it an education record? Yes.
2. Is it directory information? No.
3. Does FERPA allow you to provide it anyway? No, but you can direct the person to Career Services so the job can be posted on their website.

Questions?

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