

## Family Educational Rights and Privacy Act (FERPA) Basics

### Overview

FERPA is a federal law designed to protect the privacy of education records and provides guidelines for appropriately using and releasing student education records. It is intended that students' rights be broadly defined and applied. Therefore, consider the student as the "owner" of the information in his or her education record, and the institution as the "custodian" of that record.

### Key Terms/Definitions

**EDUCATION RECORDS** include any record maintained by the institution that contains information that is personally identifiable to a student (in whatever format or medium) with some narrowly defined exceptions:

- Sole possession records or private notes of an individual staff or faculty (e.g. private advising notes).
- Law enforcement or campus security records.
- Employment records (unless the employment is based on student status).
- The employment records of student employees (e.g. work-study, wages, and graduate teaching associates) are part of their education records.
- Medical/psychological treatment records (e.g. from a health or counseling center).
- Alumni records (i.e. those created after the student graduated or left the institution).

**DIRECTORY INFORMATION** includes items that are generally not considered harmful or an invasion of privacy if publicly available. Each institution establishes what it considers to be directory information. South lists the following as directory information:

- student name
- email address
- enrollment status in the college
- date(s) of enrollment
- division/area of study
- degrees and awards received
- participation in an officially recognized sport
- weight and height of members of athletic teams

Every student must be given the opportunity to have directory information suppressed from public release. This process is often referred to as a "no release," "opt out" or "suppression." When a student makes this request, everyone within the institution must abide by a student's request that no information be released about the student. The Registration office staff can look up whether or not a student has a release on file.

**Please note:** A "no release" request does not mean that a school official within the institution who has a demonstrated legitimate educational interest (e.g. a faculty member teaching the student in class) is precluded from using the information to perform that official's job duties.

### When do FERPA rights begin?

A FERPA-related college education record begins for a student when he or she enrolls in a higher education institution (first day of class). At a postsecondary institution, rights belong to the student in attendance, regardless of the student's age.

### **Basic Rights of Students under FERPA**

1. **Be notified of their FERPA rights at least annually.**
2. **Inspect and review their records. Students have the right to see everything in their "education record,"** except information about other students, financial records of parents, and confidential letters of recommendation if they waived their right of access. FERPA does not prescribe what records are created or how long they are to be kept; however, you cannot destroy a record if there is a request to inspect and review.
3. **Amend an incorrect record.**
4. **Consent to disclosure** (with exception – see below). Start with the premise that the student has the right to control to whom his or her education record is released. Then, there are several exceptions when that permission is not required. In those instances where a signed release is required, regulations now provide the flexibility to accept an electronic signature.

### **When is prior consent not required?**

The institution may disclose records without consent if certain requirements are met, but it is not required to do so. Some, but not all, examples of the exceptions to the release requirement include:

- "School officials" with a "legitimate educational interest." A school official is a person employed by the college in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the University has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or a student worker. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibilities.
- Disclosure to another institution where the student seeks to enroll or is enrolled.
- Disclosure to DOE, state/local education authorities.
- Disclosure in connection to the receipt of financial aid.
- Disclosure to state/local officials in conjunction with legislative requirements including subpoenas.
- Disclosure to organizations conducting studies to improve instruction, or to accrediting organizations.
- Disclosure to parents of dependent students (IRS definition).
- Disclosure to parents of any student under the age of 21, a violation of federal, state, local or institutional laws/regulations related to substance abuse (provided that other laws governing the institution, such as state law, do not preclude such disclosures).
- Disclosure for a health/safety emergency (must document what the emergency was and to whom the information was released).

### **Specific Issues for Faculty and Instructional Staff**

**POSTING GRADES:** Since grades can never be directory information, it is inappropriate to post grades in a public setting. An instructor may, however, post grades if they are posted in such a manner that only the instructor and the individual student can identify the individual and his or her grade. Grades should never be posted by any portion of the SSN or in the same order as the class roster or in alphabetical order.

**WEB-BASED TOOLS TO SUPPORT CLASSES:** Courses supported by class websites and/ or discussion groups must take extra precautions to not inadvertently release non-directory student information. Only directory information can be available to the general public and other class members, so it is recommended that such Web-based tools employ a security layer so that only class members and instructors can access appropriate information.

**STUDENTS OPTING FOR NO RELEASE IN THE CLASSROOM SETTING:** Students cannot choose to be anonymous in the classroom setting. If a student has chosen “no release” for his or her directory information, that does not mean that an instructor cannot call on him or her by name in class or that the student’s email address cannot be displayed on an electronic classroom support tool such as a discussion board, blog, or chat feature.

### **SPECIAL NOTES**

- FERPA rights at a postsecondary institution end with a student’s death.
- Students have a formal right to file a complaint with the Department of Education:  
*Family Policy Compliance Office*  
*U.S. Department of Education*  
*408 Maryland Avenue Southwest*  
*Washington, DC 20202-4605*

### **Key Resources for Additional Information**

- **South Seattle Registration Office**
  - Website covering FERPA: <http://www.southseattle.edu/registration/ferpa.aspx>
  - Email: <mailto:ssccregistration@seattlecolleges.edu>
  - Phone: 206-934-7938
  - In person: Robert Smith Building, 030
- **American Association of Collegiate Registrars and Admissions Officers (AACRAO)**
  - Website: <http://www.aacrao.org/resources/compliance/ferpa>
- **Family Compliance Office of the Department of Education ( administers FERPA compliance)**
  - Website: <http://www2.ed.gov/policy/gen/guid/fpco/index.html>