

# FAYETTEVILLE STATE UNIVERSITY

## STUDENT EDUCATION RECORDS [FERPA]

<b>Authority:</b>	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
<b>Category:</b>	Students
<b>Applies to:</b>	● Administrators      ● Faculty      ● Staff      ● Students
<b>History:</b>	Revised – November 18, 2020 Revised – September 19, 2016 Revised - October 7, 2009 Revised – July 25, 2003
<b>Related Policies:</b>	<i>Family Educational and Privacy Rights Act</i> [20 U.S.C. Section 1232g] <i>Family Educational Rights and Privacy Regulations</i> [34 C.F.R. Part 99]
<b>Contact for Info:</b>	Office of Legal Affairs (910) 672-1145

## I. INTRODUCTION

*The Family Educational Rights and Privacy Act of 1974* (aka the “Buckley Amendment” or “FERPA”), guarantees certain rights to university students regarding education records. Fayetteville State University (“University”) adheres to those statutory rights and has implemented this policy in order to comply. Specifically, students are afforded the following rights with respect to their educational records:

- The right to inspect and review the student's education records;
- The right to consent to disclosure of the student's education records to third parties, except to the extent that FERPA authorizes disclosure without consent;
- The right to request amendment of the student's education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student’s privacy rights;
- The right to be notified annually of the student's privacy rights under FERPA; and
- The right to file a complaint with the U.S. Department of Education concerning alleged failures by FSU to comply with the requirements of FERPA.

## II. DEFINITIONS

- A. **Directory information** means information in a student's education record that FSU may consider not to be harmful or an invasion of privacy if disclosed under

limited circumstances. FSU recognizes the following as directory information: a student's name, photograph, campus email address, enrollment status, major field of study, dates of attendance, honors, degrees and awards (including scholarships) received, participation in officially recognized activities, organizations and sports, weight and height of members of athletic teams, and the most recent previous educational agency or institution attended. Directory information shall not include a student's social security number or student identification number.

- B. **Disclosure** means to permit access to or to release, transfer, or otherwise communicate personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.
- C. **Education record** is any record (written, printed, taped, filmed, electronic, etc.) maintained by FSU or by an FSU official that is directly related to a student, with the following exceptions:
1. A record kept by an FSU official if it is kept in the sole possession of the maker of the record and is not accessible or revealed to other persons except for a temporary substitute for the maker of the record.
  2. Records created and maintained by FSU Police and Public Safety strictly for law enforcement purposes.
  3. Records relating to an individual who is employed by FSU that are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose. Records relating to an individual in attendance at FSU who is employed as a result of his or her status as a student are education records and are not excepted under this paragraph of this definition.
  4. Records on a student that are made or maintained by the Center for Personal Development or the Student Health Center while a professional or paraprofessional is acting in his or her professional/paraprofessional capacity. The records must be made, maintained or used only in connection with treatment and disclosed only to individuals providing treatment. Treatment does not include remedial educational activities or activities that are part of the program of instruction at FSU.
  5. Records created or received by FSU after a student is no longer in attendance and that are not directly related to the student's attendance as a student.
  6. Peer graded records before they have been collected and recorded by the instructor.

D. **FSU official** means:

1. A person employed by FSU in an administrative, supervisory, academic, research, or support staff position (including FSU law enforcement personnel operating in a non-law enforcement capacity and health services personnel); or
2. A member of FSU's Board of Trustees in connection with a student appeal; or
3. A person or company with whom FSU has contracted as its agent to provide a service instead of using FSU employees or officials (such as an attorney, auditor, or collection agent); or
4. A member of FSU's Judicial Board in connection with an academic dishonesty allegation/violation or non-academic misconduct allegation/violation.

E. **Legitimate educational interest** means an interest that is essential to the general process of higher education, including teaching, research, public service, academic advising, general counseling, discipline, job placement, financial assistance, medical services, and academic assistance activities.

F. **Parent** includes a natural parent of a student, a guardian, or an individual acting as a parent in the absence of a parent or a guardian. A **qualified parent** is either:

1. A parent of a student who has received written consent from the student to review the student's education records, or
2. A parent who has claimed the student as a dependent as defined in section 152 of the Internal Revenue Code of 1954 and as amended in the most recently ended tax year.

G. **Personally identifiable information** includes but is not limited to the student's name; the name of the student's parent or other family member; the address of the student or student's family; a personal identifier, such as the student's social security number, student number or biometric record; other indirect identifiers such as the student's date of birth, place of birth and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the University community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who FSU reasonably believes knows the identity of the student to whom the education record relates.

- H. **Records custodian** is an FSU department/unit which possesses education records of students. (See Attachment A)
- I. **Student** means an individual who is or who has been in attendance at FSU. It does not include persons who have been admitted but did not attend FSU.

### III. THE RIGHT TO REVIEW AND INSPECT

- A. A student has the right, upon request to the appropriate FSU official, to review all materials that are in the student's education records, **except**:
  - 1. Financial information submitted by the student's parents;
  - 2. Letters and statements of recommendation for which the student has waived the right of access, or which were placed in the student's file before January 1, 1975;
  - 3. Education records containing information about more than one student, in which case FSU will permit access only to that part of the record that pertains to the inquiring student; and,
  - 4. Those records which are excluded from the FERPA definition of education records if such records do not fall within the definition of "public records" under Chapter 132 of the North Carolina General Statutes and records for which there is no other legal right of access under federal or state law.

#### B. Procedure to Inspect Education Records

- 1. Students may inspect and review their education records upon request to a records custodian. The University will not provide copies of records to a student unless the student is located a considerable geographical distance from campus. A qualified parent of a student may, within FSU's discretion, inspect a child's records upon the parent's request to a records custodian. A student or qualified parent should submit to the records custodian a written request which specifies the record(s) the student wishes to inspect.
- 2. The records custodian will make the needed access arrangements as promptly as possible and notify the student or qualified parent of the time and location where the records may be inspected. The records custodian must provide access within 45 days or less from receipt of the request.
- 3. When a record contains information about more than one student, the student or qualified parent may inspect and review only the records which relate to the student.

#### IV. THE RIGHT TO CONSENT TO DISCLOSURE

- A. In all other cases, FSU will not release personally identifiable student information in education records or allow access to those records without prior consent of the student, except as stated in Section IV.B and V. below. Such consent must be written, signed and dated, and must specify the records to be disclosed, the party to whom the records are to be disclosed, and the purpose of the disclosure.
- B. Unless a student requests in writing to the contrary, FSU is permitted to release directory information without consent. Under FERPA, a student has the right to request that the disclosure of directory information be withheld as long as the student is enrolled at FSU. If a student wishes to have the student's directory information withheld, during the student's enrollment, the student should submit a written request to the records custodian. Directory information may be released without permission for students no longer enrolled at FSU. However, FSU must continue to honor any valid request to opt out of directory information disclosures made while a student was in attendance unless the student rescinds the opt out request.

A student may not use the right to opt out of directory information disclosures to prevent FSU from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

#### V. FERPA AUTHORIZED DISCLOSURE WITHOUT CONSENT

- A. FSU may disclose, at FSU's discretion, personally identifiable information from an education record of a student without the student's consent if the disclosure meets one or more of the following conditions:
  - 1. **FSU Official.** FSU may disclose education records to FSU officials whom FSU has determined to have a legitimate educational interest in the records.
  - 2. **Other Institutions.** FSU may disclose education records, upon request, to officials of another school, school system or institution of post-secondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer. The disclosure may include any information including discipline and health records and updated or corrected information. Students are hereby notified that it is FSU's policy that it will disclose education records to other educational institutions in these situations without notifying the student of such disclosure of records.
  - 3. **Federal, State, and Local Officials and Educational Authorities.** FSU must comply with federal and state education agency audits, evaluations

and other legal requirements. In order to comply with these requirements, FSU may disclose education records to authorized representatives of the United States Department of Education, the Comptroller General of the United States, the Attorney General of the United States, or state and local educational authorities. FSU will protect education records disclosed to the agencies above. The agencies may make further disclosures if authorized by law.

4. **Financial Aid.** FSU may disclose education records if the disclosure is in connection with a student's request for or receipt of financial aid as necessary to determine the eligibility, amount, or conditions of the financial aid, or to enforce the terms and conditions of the aid.
5. **State and Local Juvenile Justice Officials.** FSU may disclose education records to State and local officials or authorities to whom the information is specifically allowed to be reported or disclosed pursuant to State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the students whose records are released; or allowed to be reported or disclosed pursuant to a state law requiring disclosure that was adopted before November 19, 1974.
6. **Institutional Studies.** FSU may disclose education records to contract organizations conducting the following studies: 1) studies to develop validate or administer predictive tests, 2) studies to administer student aid programs, and/or 3) studies to improve instruction. Before disclosing education records, FSU and the organization must enter a written agreement detailing the scope, purpose and duration of the study. The written agreement must describe mechanisms for the protection of education records. [Seek assistance from the Office of Legal Affairs when entering agreements].
7. **Accrediting Agencies.** FSU may disclose education records to accrediting organizations to carry out their functions.
8. **Parents.** FSU may disclose education records to parents of a student who claim the student as a dependent for income tax purposes as defined in section 152 of the Internal Revenue Code of 1954 and as amended;
9. **Court Order or Subpoena.** FSU may disclose educational records to comply with a judicial order or a lawfully issued subpoena. In most cases, FSU must make a reasonable effort to notify the student of the order or subpoena in advance of compliance, so that the student may seek protective action. However, FSU will not notify the student when the court or other issuing agency orders that a subpoena not be disclosed. In addition, FSU will not notify the student of an ex parte order that is

obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

10. **Litigation.** FSU may disclose education records to a court, without a court order, in the context of a lawsuit that the student or parent brought against FSU or that FSU brought against the student or parent.
11. **Health or Safety Emergency.** If FSU determines there is an articulable and significant threat to health or safety, FSU may disclose information from an education record to appropriate parties, including parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. FSU may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals.
12. **Directory Information.** FSU may disclose education records, upon request, when the disclosure is directory information so designated by FSU. FSU shall not disclose or confirm directory information without meeting the written consent requirements in Section IV if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records. Each request for directory information is evaluated separately and most requests for directory information are denied in order to protect student privacy. FSU may decide not to release directory information to individuals/organizations who seek to conduct fund-raising activities or solicitations. FSU does not release directory information pursuant to public records requests. FSU may, in its considered discretion, release directory information where the release will aid FSU in its mission; where a release is made to benefit students; or to FSU affiliates and partners. FSU will generally not release directory information to marketers or other entities who seek to advertise themselves or their products to students.
13. **Victim of Crime.** FSU may disclose education records to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the FSU disciplinary proceeding with respect to that alleged crime or offense. FSU may disclose the final results of the disciplinary proceeding, regardless of whether FSU concluded a violation was committed.
14. **Other Disclosures of Final Results of Student Conduct Hearings.** FSU may disclose the final results of a disciplinary proceeding against a student whom FSU has determined violated an FSU rule or policy in connection

with an alleged act that would, if proven, also constitute a crime of violence or non-forcible sex offense. Note that some additional disclosures may be required under the *Clery Act* or the *Campus Sexual Assault Victim's Bill of Rights*.

15. **Alcohol or Drug Violations.** FSU may disclose education records to parents of a student who is under the age of 21 at the time of the disclosure when the disclosure relates to an FSU determination that the student has violated FSU's drug or alcohol policies.
16. **Registered Sex Offender Information.** FSU may disclose educational records when the disclosure concerns sex offenders and other individuals required to register under section 170101 of the *Violent Crime Control and Law Enforcement Act of 1994*, 42 U.S.C. 14071, and the information was provided to FSU under 42 U.S.C. 14071 and applicable federal guidelines.

B. FSU will maintain a record of all requests for and/or disclosures of information from a student's education records, other than requests by or disclosures to the following:

- the student,
- a qualified parent of the student,
- an FSU official as defined in Section II,
- a party with written consent of the student,
- a party seeking only directory information,
- a party seeking records pursuant to a subpoena when the court or issuing agency has ordered that the subpoena not be disclosed, or
- the United States Attorney General (or designee not lower than an Assistant Attorney General) pursuant to an ex parte order concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

The record will indicate the name of the party making the request, any additional party to whom it may be redisclosed, and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by a qualified parent or by the student.

## **VI. RIGHT TO REQUEST AMENDMENT OF AN EDUCATION RECORD**

Students have the right to ask to have records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. The following are procedures for the correction of records:



- A. A student must ask the appropriate records custodian, listed in Attachment A, to amend a specific record. In so doing, the student should identify the part of the record the student wants changed and specify why the student believes it to be inaccurate, misleading, or in violation of the student's privacy rights.
- B. The records custodian may comply with the request or may decide not to comply. If the records custodian decides not to comply, the records custodian will notify the student of the decision and advise the student of the right to a hearing to challenge the information believed to be inaccurate, misleading, or in violation of the student's privacy rights.
- C. Upon request, the records custodian will arrange for a hearing and will notify the student reasonably in advance of the date, location, and time of the hearing.
- D. The hearing will be conducted by a hearing officer who is a disinterested party appointed by the Vice Chancellor in authority over the office where the records being contested are located. The hearing officer may be an FSU official. The student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. One or more individuals with a campus affiliation may assist the student.
- E. The hearing officer will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.
- F. If the hearing officer decides that the contested information is not inaccurate, misleading, or in violation of the student's right of privacy, the hearing officer will notify the student that the student has a right to place in the record a statement commenting on the contested information and/or a statement setting forth reasons for disagreeing with the decision.
- G. The statement will be maintained as part of the student's education records as long as the contested portion is maintained. If FSU discloses the contested portion of the record, it will also disclose the statement.
- H. If the hearing officer decides that the information is inaccurate, misleading, or in violation of the student's right of privacy, the appropriate records custodian will amend the record and notify the student, in writing, that the record has been amended.

## **VII. THE RIGHT TO FILE A COMPLAINT WITH THE U.S. DEPARTMENT OF EDUCATION**

A student who believes that the outcome of a hearing to amend his or her education records was unfair or not in keeping with the provisions of FERPA may file a complaint

with the U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202-4605, concerning alleged failures of FSU to comply with FERPA.

#### **VIII. THE RIGHT TO BE NOTIFIED ANNUALLY OF RIGHTS UNDER FERPA**

FSU provides official notice to students of their rights under FERPA by publishing such notice in the FSU Undergraduate and Graduate Catalogs and posting it at <http://www.uncfsu.edu/registrar>.

#### **IX. STUDENT'S EDUCATION RECORDS AT THE UNIVERSITY OF NORTH CAROLINA GENERAL ADMINISTRATION**

Certain personally identifiable information about students may be maintained at The University of North Carolina General Administration ("University"), which serves the Board of Governors of the University system. This student information may be the same as, or derivative of, information maintained by a constituent institution of the University; or it may be additional information. Whatever their origins, education records maintained at General Administration are subject to FERPA.

A student may file with the U.S. Department of Education a complaint concerning failure of General Administration or an institution to comply with FERPA.

The policies of The University of North Carolina General Administration concerning FERPA may be accessed in the Office of the Secretary of The University of North Carolina, General Administration, 910 Raleigh Road, Chapel Hill, NC. Questions about the policies may be directed to Legal Section, Office of the President, The University of North Carolina, General Administration, Annex Building, 910 Raleigh Road, Chapel Hill, NC (mailing address P. O. Box 2688, Chapel Hill, NC 27515-2688).

#### **X. LIMIT TO PROTECTION OF EDUCATION RECORDS**

FERPA's protection of personally-identifiable information in a student's educational record ends at the time of the student's death. After the death of a student, at FSU's discretion, the student's education records may be disclosed. Unless FSU has information to the contrary, 75 years after the student's last date of enrollment, FSU will presume that the student is deceased.

**ATTACHMENT A**  
**Location of Student Education Records**

- **Academic Records**  
Registrar  
Lilly, Room 300  
  
Dean, University College  
Helen Chick, Room 103  
  
Director of Continuing Education  
Marion and Aronul E. Harris Building, Suite 130  
  
Office of the Academic Department Chair (for the particular major)  
  
Office of the School/College Dean (for the particular major)
- **Admissions Records**  
Director of Admissions  
Collins, Lower Level
- **Athletics Records**  
Director of Athletics  
Health & PE Building, 3<sup>rd</sup> Floor  
  
Office of the Coach of the Particular Sport  
Health & PE Building, 3<sup>rd</sup> Floor
- **Career Services Records**  
Director of Career Services,  
Rudolph Jones Student Center, Room 223
- **Disability Accommodation Records**  
Director of the Center for Personal Development  
Spaulding, Room 155
- **Disciplinary Records**  
Director of Student Conduct
- **Employment Records**  
Associate Vice Chancellor for Human Resources  
Barber, Lower Level  
  
Director of Student Financial Aid  
Lilly, 1<sup>st</sup> Floor
- **Financial Aid Records**

Director of Student Financial Aid  
Lilly, 1<sup>st</sup> Floor

- **International Students Records**  
Assistant Vice Chancellor for International Education  
Hackley Honors Hall, Suites 117 and 118
  
- **Residence Hall Records**  
Director of Residence Life  
Williams Hall
  
- **ROTC Records**  
Air Force ROTC Office  
Lauretta J. Taylor Building, Room 136  
  
Army ROTC Office  
Taylor Science Building, Suite 109
  
- **Student Accounts Records**  
Treasurer/Bursar's Office  
Lilly, 2nd Floor
  
- **Title IX Records**  
Titles IX Coordinator  
Barber, Room 242