

**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 that one might have.
- ▶ University policy has been developed to comply with FERPA, and it can be found at:  
<https://etg07.itc.virginia.edu/policy/policydisplay?id=STU-002>.
- ▶ If you have questions about a situation, contact Jonathan Helm (243-2178, [jhelm@virginia.edu](mailto:jhelm@virginia.edu)) or Carol 'Stash' Stanley (982-2791, [stash1@virginia.edu](mailto:stash1@virginia.edu)).

## What is FERPA?

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.

## Who is protected by FERPA?

- ▶ Students who are or have been “in attendance” at the institution, in person, or by paper correspondence, video conference, satellite, internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom 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, are not protected by FERPA.

## How is “in attendance” defined?

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

## What are a student's primary rights under FERPA?

- ▶ The right to inspect and review his or her education records.
- ▶ The right to request an amendment to his or her education record that he or she believes to be inaccurate or misleading.
- ▶ The right to consent to disclosures of personally identifiable information contained in his or her 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 by an institution to adhere to FERPA.

## 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 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 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).

continued...

## What is not considered an education record (cont.)?

- ▶ 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 if a student wants to inspect his or her 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.
- ▶ The institution shall respond to reasonable requests for explanations and interpretations of the records.
- ▶ 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 if a student wants to amend his or her record?

- ▶ A student who believes that information contained in his or her education records is inaccurate or misleading, or that it violates his or her privacy or other rights, may seek correction of the records through a request to amend the records or through a hearing.
- ▶ Challenges can only be made to the accuracy of the records and not to the judgments the records contain.

## What is personally identifiable information?

Personally identifiable information includes, but is not limited to:

- ▶ The student's name;
- ▶ The name of a student's parent or other family member;
- ▶ The address of the student or student's family member;
- ▶ A personal identifier such as the student's social security number, student system identification number, or University Identification number;
- ▶ A list of personal characteristics or other information that would allow a reasonable person in the school community to identify the student with reasonable certainty.

## How may personally identifiable information be released from an education record when the student's consent is required?

- ▶ To release information to someone other than the student, the student must have given signed 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; and
  - ▶ Include a signature and date.

# When may personally identifiable information from an education record be disclosed without the student's consent?

When the disclosure is:

- ▶ Releasing directory information;
- ▶ To school officials who have legitimate educational interest;
- ▶ To officials of other schools or schools systems in which the student seeks or intends to enroll;
- ▶ To organizations providing financial aid;
- ▶ To organizations conducting studies on behalf of educational institutions;
- ▶ To accrediting organizations;

continued...

## When may personally identifiable information from an education record be disclosed without the student's consent (cont.)?

- ▶ Certain officials pursuant to their statutory purpose, including: the United States Comptroller General, the United States Secretary of the Department of Education, the United States Attorney General, and state educational authorities;
- ▶ State and local officials and authorities to which such information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 19, 1974;
- ▶ To parents of dependent students as defined in section 152 of the Internal Revenue Code of 1954;

## When may personally identifiable information from an education record be disclosed without the student's consent (cont.)?

- ▶ 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;
- ▶ Releasing the final results of a disciplinary hearing against an alleged perpetrator of a crime of violence or non-forcible sex offense if the student is found to have committed a violation of the University's rules or policies.
- ▶ To a parent of a student under the age of 21 who has violated a law or University regulations pertaining to the use or possession of alcohol or a controlled substance.

## What is 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 his or her directory information.

How would I know if a student has restricted the release of his or her directory information?

- ▶ The education record of a student is flagged in SIS, by UREG, for students who do not want their directory information released to third parties. This is identified by a window shade icon appearing on pages displaying information for the student.
- ▶ If a student has requested a restriction of the release of directory information, you must answer third party inquiries about the student with: "I have no information to release on this individual."

## What does the University of Virginia include as elements of 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.)

continued...

## What does the University of Virginia include as elements of directory information (cont.)?

- ▶ 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
- ▶ Participation in officially recognized activities and sports
- ▶ Weight and height of members of athletic teams

continued...

## What does the University of Virginia include as elements of directory information (cont.)?

- ▶ 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

## Who is a “school official” and what is “legitimate educational interest”?

- ▶ School officials are those individuals who engage in the instructional, supervisory, advisory, administrative, governance, public safety, and support functions of the University.
- ▶ Legitimate educational interest refers to the need of a school official to access a student's education records in the course of performing his or her duties for the University.

## How does FERPA apply to 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 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 of violations under FERPA.

continued . . .

## What is the penalty for violating FERPA and how would anyone know (cont.)?

- ▶ If a complaint is found to be valid, an institution would typically be notified of the need to correct policy and/or practice, and it would be given a reasonable period of time to achieve compliance.
- ▶ If an institution fails to comply within the specified period of time, it may lose funds distributed by the Secretary of Education, 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 (cont.)

- ▶ 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 (cont.)

- ▶ 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 a valid driver's license.

## FERPA Tips (cont.)

- ▶ 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.

## What are some strategies for dealing with individuals that can not gain access to education records because of 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 access the screen where the information is contained so that you are not tempted to share information you should not.

continued...

What are some strategies for dealing with individuals that can not gain access to education records because of FERPA (cont.)?

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

## What resources are available for FERPA?

- ▶ Carol “Stash” Stanley, 982-2791, [stash1@virginia.edu](mailto:stash1@virginia.edu)
- ▶ Jonathan Helm, 243-2178, [jhelm@virginia.edu](mailto:jhelm@virginia.edu)
- ▶ UREG web site:  
<http://www.virginia.edu/registrar/privacyact.html>
- ▶ United States Department of Education, Family Policy Compliance Office:  
<http://www.ed.gov/policy/gen/guid/fpco/ferpa>