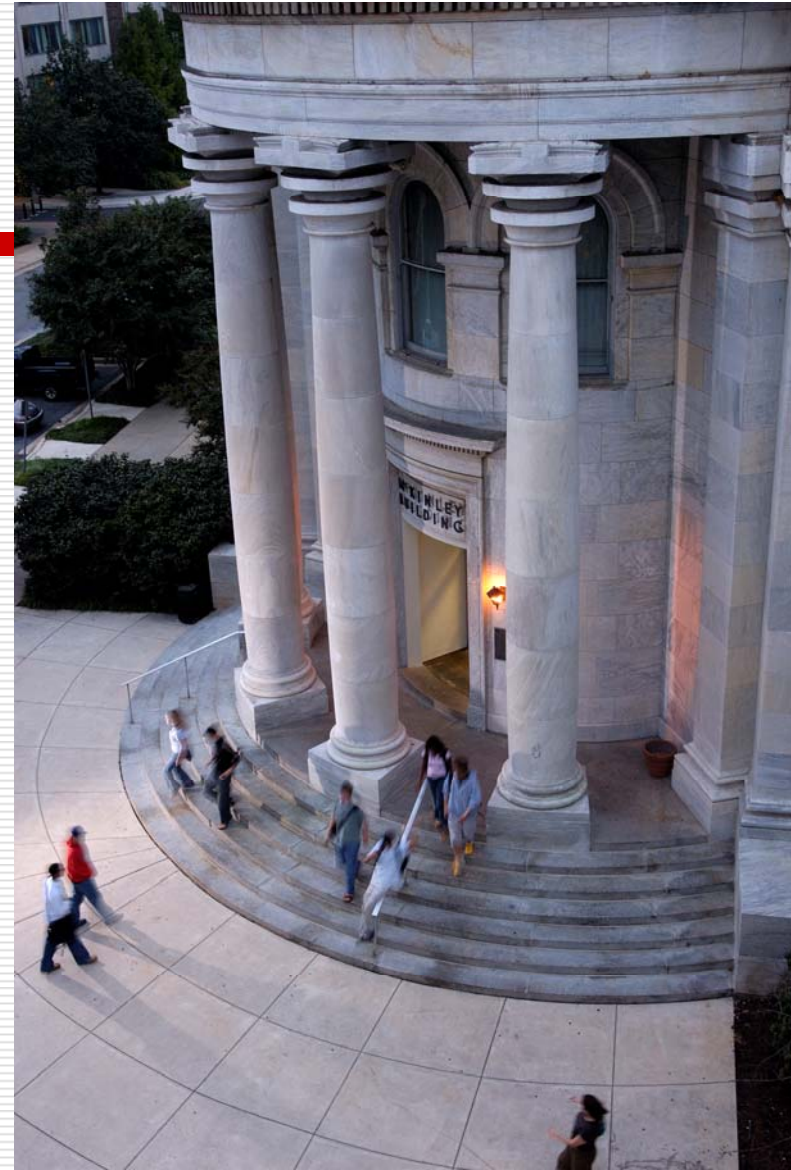


FERPA

The Federal Educational Rights and Privacy Act

*A Guide for Faculty at
American University*



FERPA: The Family Educational Rights and Privacy Act of 1974



The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student educational records.

The law applies to any school that receives funding through the U.S. Department of Education.

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Students who are or have been in attendance in higher education institutions regardless of their age or dependency status are covered under FERPA.

(FERPA does not cover a person who applied for admission but never attended the university)

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Students have the right, *in general*, to

- ☐ Control the disclosure of their “education records” to others
- ☐ Inspect and review their own “education records”
- ☐ Seek amendment of their “education records”
- ☐ To be notified of their privacy rights

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Education records are those records that are:

- ❑ Directly related to a student; and
- ❑ Maintained by an educational agency or institution or by a party acting for the agency or institution

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A record is directly related to a student if it contains
“personally identifiable information” about the student.

“Records that teachers and other school officials maintain on students that use only initials, nicknames, or personal descriptions to identify the student are educational records under FERPA because they are directly related to the student”

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“Personally identifiable information” includes, but is not limited to:

- ❑ the name of the student or the student’s parent or other family member
- ❑ the address of the student or student’s family
- ❑ personal identifiers such as SSNs, student numbers, or biometric records
- ❑ Other indirect identifiers such as date or place of birth or mother’s maiden name

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Student education records are confidential and may only be released with consent of the student or as otherwise permitted by law.

A student may authorize third party access by completing the **Student Authorization for Release of Education Record Information** form in the Registrar's Office.

FERPA permits parental access to education records if the student is a dependent for tax purposes. Parents or legal guardian may establish their right to access academic and non-academic education records by completing a **Parental Affidavit of Dependency** form in the Registrar's Office.

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Education records may be maintained in any media, including, but not limited to, handwriting, print, electronic data, e-mail, video or audio tape, film, microfilm, and microfiche.

(FERPA does not include information that is not “recorded” – that is , personal knowledge)

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American University does not maintain education records in one central office.

Education records are maintained in the various departments, schools, or colleges. *(Including, but not limited to the Registrar's Office, academic offices, academic advising and dean's offices, Provost's Office, Admissions Office, Career Center, etc.).*

Students should contact the Registrar's Office, or, for law students, the Washington College of Law (WCL) Registrar, for guidance in determining which unit(s) they should contact about an education record.

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Examples of academic student education records include:

- ☐ Permanent record of academic performance (e.g., transcript, including supporting documents)
- ☐ exams, papers, and the like
- ☐ files of academic progress
- ☐ Career Center files

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Examples of non academic student education records include:

- ☐ Financial Aid records – *(A payment of funds to an individual which is conditioned on the individual's attendance at an educational institution. **Does not include payments made by parents**)*
- ☐ Student Accounts records
- ☐ Housing and Dining records
- ☐ International Student and Scholar Services files
- ☐ Library records
- ☐ Student discipline files

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Examples of non academic student education records continued:

- ☐ Disability accommodation records
- ☐ Photographs
- ☐ Unofficial files
- ☐ Records that are publicly available elsewhere
- ☐ Information that the student has publicly revealed
- ☐ Virtually everything

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Education records do not include:

- ☐ Sole possession records *(private notes of educational personnel that are not accessible to other personnel and only used as a memory aid)*
- ☐ Law enforcement unit records: Campus Police
- ☐ Employment records *(unless student status is job requirement)*
- ☐ Medical records *(only if not shared)*
- ☐ Post attendance records *(information obtained after the person is no longer a student at the institution e.g. alumni records)*
- ☐ Statistical data compilations that contain no mention of personally identifiable information
- ☐ Grades on peer-graded papers *(until collected and recorded)*

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What is a “Disclosure”?

Disclosure means to permit access to or to release, transfer, or otherwise communicate personally identifiable information contained in education records by any means to any party except the party who provided or created the record.

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Before disclosing education records – or information from education records – an institution must obtain a signed and dated written consent from the student, specifying:

- ☐ The records that may be disclosed
- ☐ The purpose for which they may be disclosed
- ☐ The person(s) to whom the education records may be disclosed

(Contact the Office of the University Registrar, x2232 to confirm that this third party authorization is on file.)

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Prior consent is not required for:

- ☐ "School officials" with a "legitimate educational interest"/need to know. *(Employees and legal agents have access to educational records in order to perform their official, educationally-related duties.)*
- ☐ Disclosure to parents of dependent students for federal tax purposes *(always contact the Office of the University Registrar to confirm the appropriate affidavit is on file)*
- ☐ To comply with a judicial order or lawfully issued subpoena *(contact the Office of the University Registrar or the University Counsel for advice)*
- ☐ Disclosure for health/safety emergency. *(Institutions may release information from education records, in connection with an "particularly and significant threat to health or safety of a student or other individuals").*
- ☐ Disclosure of directory information

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Directory Information

FERPA designates certain information related to students as “Directory Information” and gives the university the discretion to disclose such information to anyone inquiring without having to ask students for permission, unless students specifically request in writing that such information not be made public without their written consent.

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American University classifies Directory Information in three categories:

Academic Information

- Dates of attendance
- Major and class
- Date of graduation
- Degrees and honors earned

Contact Information

- Telephone numbers
- Addresses
- E-mail addresses

Personal Information

- Student's full name
- Month, day and place of birth
- Height and weight of athletes
- Photographs

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- ❑ FERPA considers Directory Information as generally not harmful or an invasion of privacy if disclosed.
- ❑ Directory Information can not include student identification numbers, Social Security Numbers, citizenship, gender, race, religious preference, grades, and GPA.

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- ❑ Students who object to the disclosure of directory information must notify the Office of the University Registrar in writing by completing the **Request to Prevent Disclosure of Directory Information** form.
- ❑ Even if a student signs a nondisclosure form, this does not prevent faculty from disclosing a student's name, identifier, or institutional email address in a mass emailing to his/her class in which the student is enrolled.

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- ❑ Since documentation of student consent is kept in the Registrar's Office, it is the university's policy that all requests for Directory Information be referred to the Registrar's Office.
- ❑ Also, all subpoenas for academic student education records should be referred to Michael Hunnicutt in the Registrar's Office, 203-885-2232, for review and consultation with the Office of University Counsel.

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□ **New!** *Health or Safety Emergencies*

- Institutions may release information from education records without consent, in connection with an “articulable and significant threat to the health or safety of a student or other individuals.”
- Disclosure may be made only to “appropriate parties” and must be limited to information [that] is necessary to protect the health and safety of the student or other individuals.

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Additional Pointers for Faculty and Instructional Staff

- ***Are faculty allowed to let students grade each other's work?***
 - ☐ Yes, if the work is an informal quiz where the grade is not recorded.

- ***Is there a restriction on returning assignments?***
 - ☐ You may not leave personally identifiable graded papers where access is unlimited. That is – you should never leave completed assignments in a box outside your door for each student to pick out his or her own, even if the assignments are in sealed envelopes with the students' names on the outside. You may leave the assignments with a staff member who will return each assignment to the individual student upon request and ID verification.

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Are faculty permitted to post grades?

- ❑ The public posting of grades, either by student's name, student ID number, or social security number, without the student's written permission is a violation of FERPA. This also includes the posting of grades to a class/institutional Web site and applies to any public posting of grades for students taking distance education courses.
- ❑ However, this does not preclude the faculty from assigning random (not any portion of SSN or student number) individual numbers to students for the purpose of posting grades as long as those numbers are known only to the student and the instructor. Care should also be taken to insure that the order of posting is not alphabetic.

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□ *What information may I disclose to parents?*

- Without express written permission from the student, you should always check with the Registrar's Office to determine if permission has been granted.

□ *What may I include in a letter of recommendation?*

- You may state your personal observations of the student. For example, the student is attentive or punctual. You may *not* include the student's GPA, grades, class standing, or any reference to progress or deficiencies, without written permission from the student.

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- *I sometimes make notes to myself regarding students.
Are students entitled to see these notes?*
 - If you make notes during a meeting with the student, then *yes* - because they have been made in conjunction with the student and the student is entitled to see them upon request.
 - However, if you make the notes after the meeting for the sole purpose of refreshing your memory AND they are for your own personal use AND the notes are in your sole possession where no one else has access to them, then they are considered “sole possession” notes and are separate from education records.

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- *Are my grading and assessment notes considered "sole possession records"?*
 - **No.** Your grade book and other grading assessment records are made in conjunction with the student and are not considered "sole possession notes" under FERPA. These are education records and under FERPA students have a right to inspect and review their own education records.
 - ***Remember:*** sole possession records are kept in the sole possession of the maker, are used only as a personal memory aid, and are **not** accessible or revealed to any other person. No one knows these records exist but you.

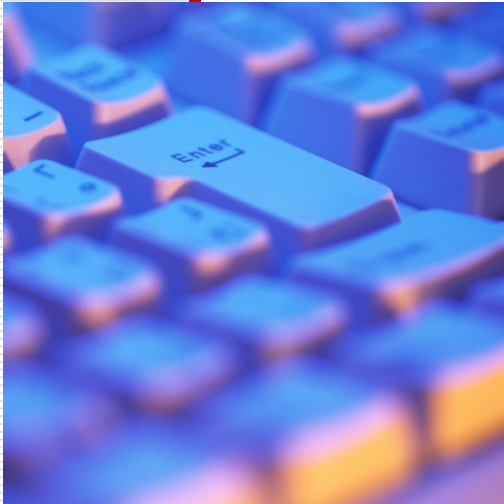
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Where Can I Go For More Information?

- Please review the university's Academic Regulations Confidentiality of Students Records Policy and visit the Office of the Registrar's website.
 - <http://www.american.edu/provost/registrar/>
 - <http://www.american.edu/provost/registrar/regulations/reg9010.cfm>
- Contact us in the Office of the University Registrar
 - Michael Hunnicutt: mhunic@american.edu or call 202-885-2232; or
 - Linda Bolden-Pitcher: pitcher@american.edu or call 202-885-2210.

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