



1. INTRODUCTION

The Family Educational Rights and Privacy Act of 1974 (FERPA) is a Federal law that helps protect the privacy of student education records. FERPA provides students the right to: (1) inspect and review their education records; (2) seek to amend those records; and (3) limit disclosure of information from their education records except in certain circumstances. FERPA applies to all institutions that are the recipients of federal aid administered by the Secretary of Education.

2. POLICY STATEMENT

2.1. Student Access

The University of Notre Dame works diligently to comply with FERPA and will notify students annually of their rights under FERPA. Consistent with FERPA, the University provides opportunities for students to inspect and review information contained in their education records, to challenge the contents of their education records, to have a hearing if the outcome of the challenge is unsatisfactory, and to submit explanatory statements for inclusion in their files if they feel that the decision of the hearing panel is unacceptable.

2.2. School Official Access

Recognizing the educational interests of both the University and its students, those designated within the University and acting with a legitimate educational interest are permitted access to student education records as “school officials.” A person must be designated as a school official and must have a legitimate educational interest in an education record before accessing and obtaining such education record. 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 for the University.

The University has designated the following groups of people as school officials: 1) a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); 2) a person, company, or organization with whom the University has contracted as its agent to provide a service instead of using University employees or officials (such as an attorney, auditor, or collection agent); 3) a person serving on the Board of Trustees; or 4) a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

2.3. Disclosure

The University shall not provide access to nor disclose any personally identifiable information from a student's education records without a signed and dated written consent of the student, except, within its discretion to:

- 1) certain school officials of the University who have a legitimate educational interest;
- 2) parent of a dependent student (i.e., student claimed as dependent on parent's federal income tax return);
- 3) officials of other institutions in which a student seeks to enroll or has enrolled, but only for purposes related to the student's enrollment;
- 4) persons or organizations providing a student's financial aid;
- 5) accrediting agencies carrying out their accreditation function;
- 6) persons in compliance with a judicial order or lawful subpoena;
- 7) persons in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals; or
- 8) as otherwise permitted by law.

2.4. Parental Disclosure

The University **MAY** allow parents to have access to their child's student education records, **WITHOUT** the student's consent, in the following circumstances:

- 1) Student is a dependent of their parent for federal income tax purposes; or
- 2) Disclosure is in connection with a health or safety emergency (i.e., if knowledge of the information is necessary to protect the health or safety of the student or other individuals); or
- 3) Student has violated a Federal, State or local law, or a rule or policy of the University, governing the *use or possession of alcohol or a controlled substance*, and the University determines that the student has committed a *disciplinary violation* regarding that use or possession and the student is *under 21* at the time of the disclosure.

2.5. Directory Information

The University designates certain information that would not generally be considered harmful or an invasion of privacy if disclosed as "directory information." At its discretion, the University may disclose directory information about a student without the student's permission in accordance with the provisions of FERPA. However, the University provides each student the option of restricting the directory information that the University can disclose about the student without the student's prior written consent. A student may exercise this option with respect to the student's addresses and phone numbers through the ND Roll Call process. If a student wishes to restrict any or all other categories of directory information that the University may disclose about the student without the student's prior written consent, the student must contact the Office of the Registrar for further instructions. While students may opt out of directory information disclosure, this right to opt out does not include the right to refuse to wear, or otherwise disclose, a unique student identification (ID) number that the University may require. With regard to former students, the University will honor any valid request to opt-out of disclosure of directory information made in the last semester the student was in attendance, unless the student rescinds the opt-out request.

2.6. Subpoenas

The University will not disclose a student's education records (or personally identifiable information contained therein) in response to a judicial order or subpoena without first making a reasonable effort to notify the student of the order or subpoena. If, however, the subpoena is a Federal grand jury subpoena or other subpoena issued for a law enforcement purpose in which the court has ordered, for good cause shown, that the University not disclose to anyone, including the student, the existence or contents of the subpoena or any information furnished in response to the subpoena, no such notification will be provided.

The University's Office of General Counsel determines what is a legally valid subpoena and responds to all valid subpoenas that are received by the University. All offices and departments of the University must submit any subpoenas they receive to the Office of General Counsel for review.

3. SCOPE

This Policy applies to all University of Notre Dame faculty, staff, and school officials.

4. DEFINITIONS

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| Directory Information | Directory information includes, but is not limited to: student name, addresses (local and permanent), telephone numbers (local and permanent), e-mail address, date and place of birth, photograph(s) of student, a student ID number, user ID or other unique personal identifier that is displayed on a student ID; major field(s) of study, dates of attendance, degrees and awards received, the most recent previous educational agency or institution attended by the student, participation in officially recognized activities and sports, and weight and height of members of athletic teams. |
| Disclosure | Permitting access to or the release, transfer, or other communication of personally identifiable information from education records to any party by any means, including oral, written, or electronic. Excluded from "disclosure" is returning an education record or information from an education record, to the party identified as the provider or creator of the record, unless the record has been altered. |
| Educational Interest | A "legitimate educational interest" is the person's need to know in order to fulfill his or her professional responsibilities for the University, including: <ol style="list-style-type: none">Perform appropriate tasks that are specified in his/her position description or by a contract agreement;Perform a task related to the student's education;Perform a task related to the discipline of a student; orPerform a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid. |

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| Education Records | <p>Those records, files, written and electronic documents, e-mail, and other materials which contain information directly related to a student and which are maintained by an educational institution, including admissions, personal academic and financial aid files, and placement records. Education records do <u>not</u> include:</p> <ol style="list-style-type: none"> a) Records of instructional, administrative, supervisory and, educational personnel which are in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any individual except a temporary substitute for the maker; b) Records created and maintained by the University's law enforcement unit for a law enforcement purpose, unless a copy of these records are included in a disciplinary file (maintained by Student Affairs) at which point the records become education records; c) Student medical treatment records (treatment records, however, may be reviewed by the student or a physician or other treatment professional of the student's choice); d) Employment records, unless employment is contingent on the individual's status as a student; e) Post-attendance (alumni) records that are not directly related to the individual's attendance as a student. However, records that pertain to an individual's previous attendance as a student are "education records" regardless of when they were created or received by the institution. |
| Personally Identifiable Information | <p>Data or information which include: (1) the name of the student, the student's parents, or other family members; (2) the student's address; (3) a personal identifier such as a social security number or student ID number; or (4) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.</p> |
| School Official | <p>Those designated within the University <u>and</u> acting with a legitimate educational interest are permitted access to student education records as "school officials." The University has designated the following groups of people as school officials: 1) a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); 2) a person, company, or organization with whom the University has contracted as its agent to provide a service instead of using University employees or officials (such as an attorney, auditor, or collection agent); 3) a person serving on the Board of Trustees; or 4) a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.</p> |
| Student | <p>Anyone who is or has been in attendance at the University and regarding whom the University maintains education records.</p> |

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| Subpoena | A command from a court with jurisdiction to require the person named in the subpoena to appear at a stated time and place to provide testimony or evidence. |
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5. RESPONSIBILITIES

| Responsible Party | List of Responsibilities |
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| Office of General Counsel | <ol style="list-style-type: none"> 1. Accept, process, and oversee students' requests for inspection of their education records. 2. Maintain log of certain third party requests for disclosure as well as actual disclosures of students' personally identifiable information to certain third parties for as long as the University maintains students' education record. 3. Oversee and/or administer the hearing procedure for requests to amend education records. 4. Review and respond to all valid subpoenas that are received by other University offices and departments. 5. Serve as a resource for questions and training on this Policy. 6. Update this Policy for the University as required. 7. Investigate violations of this Policy as necessary. |
| Office of the Registrar | <ol style="list-style-type: none"> 1. Designate the Directory Information that will be disclosed and permit students the opportunity to opt-out from having their Directory Information disclosed. 2. If a former student made a valid request to opt-out of disclosure of Directory Information while the student was in attendance at the University, the Registrar's Office will keep track of those former students' requests and honor them after the student has left the University, unless the student rescinds the opt-out request. 3. Accept, process and respond to requests to amend education records. 4. Investigate violations of this Policy as necessary. |

6. PROCEDURES

6.1. The Office of General Counsel has been designated by the University to coordinate the inspection and review procedures for student education records. A student wishing to review his/her education records must make a signed and dated written request to the Office of General Counsel listing the specific records the student wishes to inspect and review. The form for making such a written request may be obtained from the Office of General Counsel or at its website <http://generalcounsel.nd.edu/assets/55918/ferpa.1.pdf>. Records will be made available within forty-five (45) calendar days of receipt of a written request. When a record contains personally identifiable information about more than one student, a student may inspect only that information which relates to that student personally. The University reserves the right to refuse to permit a student to inspect and review the following education records:

- a) The financial statement of the student's parents.
- b) Confidential statements and letters of recommendation placed in the student's records
 - i. before January 1, 1975, as long as the statements are used only for the purposes for which they were specifically intended.
 - ii. after January 1, 1975, if the student has waived his or her right of access in writing and the letters or statements are related to the student's admission to an educational institution, application for employment, or receipt of an honor or honorary recognition.
- c) Those records which are excluded from the FERPA definition of education records.

6.2. If a student cannot personally inspect and review his/her education record(s) for a reason that the University in its discretion determines is valid, the University may arrange for the student to obtain copies of the record.

6.3. The University will maintain a log of certain third party requests for disclosures and actual disclosures of personally identifiable information to certain third parties, as required by law. Students may inspect that log by submitting a written request to the Office of General Counsel. The University will maintain this log as long as it maintains the student's education records.

6.4. A student who believes that his/her education records contain information that is inaccurate or misleading may make a request, in writing, to the Registrar requesting that the Registrar correct or amend the record. The Registrar will notify the student of its decision and, if the decision is negative, of the student's right to a hearing regarding the request for amendment. The student may submit a written request for a formal hearing regarding the student's request for amendment to the Office of General Counsel which, within a reasonable period of time after receiving such request, will provide the student additional information regarding the hearing procedures. The only permissible ground

for a student's request to participate in the FERPA amendment hearing procedure is to challenge facts that are inaccurately recorded in the student's education records. Complaints about matters other than accurate recordkeeping (for example, objections to grades, opinions, substantive decisions made about the student, or access to privileged materials) are not subject to the hearing procedure.

- 6.5.** A student who believes that his/her rights have been abridged may file a complaint with the Family Policy Compliance Office of the U.S. Department of Education.
- 6.6.** Copies of this Policy shall be made available to students upon request in the Office of General Counsel as well as online in the University Policy Repository (<http://policy.nd.edu/>). In addition, students will be notified each semester of attendance of their rights under FERPA by a notification that appears during completion of ND Roll Call. This notification will include who constitutes a school official and what constitutes a legitimate educational interest (*See Appendix*).

7. POLICY ENFORCEMENT

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| Enforcement | The University's Office of General Counsel or Office of the Registrar will investigate suspected violations of this Policy, and may recommend disciplinary action in accordance with University codes of conduct, policies, or applicable laws. |
| Reporting Violations | Report suspected violations of this Policy to the Office of General Counsel or Office of the Registrar. |

8. REFERENCE DOCUMENTS

| Policy or Document | Web Address |
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| The Family Educational Rights and Privacy Act | http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html |
| FERPA Student Education Records Request Form | http://generalcounsel.nd.edu/assets/55918/ferpa.1.pdf |
| Highly Sensitive Information Handling Standards at Notre Dame | http://oit.nd.edu/policies/itstandards/infohandling.shtml |

9. CONTACTS

| Subject | Office or Position | Telephone Number | Office E-mail or URL |
|-----------------------------|---------------------------|---|--|
| Policy Clarification | Office of General Counsel | (574) 631-6411 | gencoun@nd.edu |
| Web Address for this Policy | | http://policy.nd.edu/policy_files/FERPAStudentRecordsPolicy.pdf | |

10. APPENDIX

University of Notre Dame Annual Student Notification of Rights under FERPA

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. These rights include:

(1) The right to inspect and review the student's education records within 45 days of the day the University receives a request for access.

A student should submit to the Office of General Counsel a written request that identifies the record(s) the student wishes to inspect. The request form is located at <http://generalcounsel.nd.edu/assets/55918/ferpa.1.pdf>. The Office of General Counsel will make arrangements for access and notify the student of the time and place where the records may be inspected.

(2) The right to request the amendment of the student's education records that the student believes are inaccurate or misleading.

A student who wishes to ask the University to amend a record should make a request, in writing, to the Registrar requesting that it correct or amend the record. If the Registrar decides not to amend the record as requested, the Registrar will notify the student of the decision and the student's right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student after the student submits a written request for a formal hearing.

(3) The right to provide written consent before the University discloses personally identifiable information from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

The University discloses education records without a student's prior written consent under the FERPA exception for disclosure to school officials with legitimate educational interests. A school official is:

- A person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff);
- a person, company, or organization with whom the University has contracted as its agent to provide a service instead of using University employees or officials (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 assisting another school official in performing his or her tasks.

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 for the University.

The University also has the discretion to disclose education records without the student's consent to the following:

- certain school officials of the University who have a legitimate educational interest;
- parent of a dependent student (i.e., student claimed as dependent on parent's federal income tax return);
- officials of other institutions in which a student seeks to enroll or has enrolled, but only for purposes related to the student's enrollment;
- persons or organizations providing a student's financial aid;
- accrediting agencies carrying out their accreditation function;
- persons in compliance with a judicial order or lawful subpoena;
- persons in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals; or
- as otherwise permitted by law.

(4) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the University to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-5901