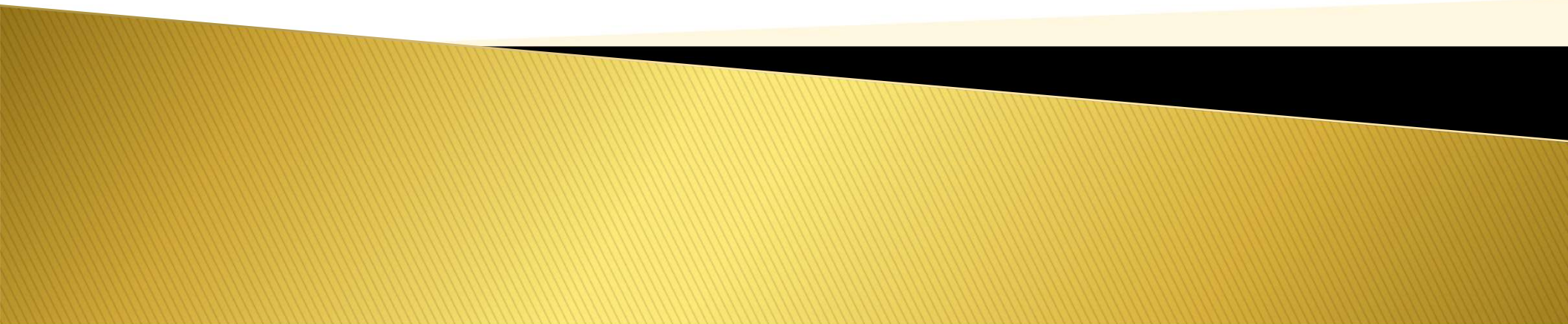


FERPA

An Overview



What is FERPA?

- ▶ The Family Educational Rights and Privacy Act of 1974, better known as FERPA or the Buckley Amendment, was established to guarantee the rights of student to control access to their educational records.

When do FERPA rights begin?

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



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”:

- Records in the “sole possession of the maker” (e.g., private advising notes).
- Law enforcement records created and maintained by a law enforcement agency for a law enforcement purpose.
- Employment records (unless the employment is based on student status). The employment records of student employees (e.g. work–study, wages, 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).

School Official – is a person employed by an institution or NSHE System Administration Unit in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the institution has contracted as its agent to provide a service instead of using institutional employees or officials (such as an attorney, auditor, or collection agency); a person serving on the Board of Regents; or a student serving on an official committee, such as disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

Legitimate Education Interest – for NSHE purposes, a school official is determined to have legitimate educational interest if the information requested is necessary for that official to (a) perform appropriate tasks that are specified in his or her position description or by a contract agreement; (b) perform a task related a student’s education; (c) perform a task related to the discipline of a student; (d) provide a service or benefit relating to the student or student’s family, such as health care, counseling, job placement, or financial aid.

- ▶ **Directory Information** – Those data items that are generally not considered harmful or an invasion of privacy if publicly available. Cannot be released if student has “no release” 📁 on his/her record.

At Nevada State University, directory information includes:

- Student Name
- Address
- Telephone numbers
- Email addresses
- Major Field of Study
- Dates of Attendance
- Date of Graduation
- Undergraduate and Graduate Status
- Enrollment Status (full-time; part-time)
- Degrees, Honors, and Awards received
- Listings of the most recent educational agency or institution that students have attended
- Photographs for university use
- Student participation in officially recognized activities and sports
- Weight and height of members of athletic teams

FERPA provides 4 basic rights to a student:

- ▶ To inspect and review their records;
- ▶ To amend an incorrect record;
- ▶ To consent or limit disclosure (with exceptions);
- ▶ To file a complaint with the U.S. Department of Education concerning alleged failures by the university to comply with the requirements of FERPA

To be notified of their FERPA rights at least annually.

Inspection and Review

Students have the right to *see* everything in their “education record,” except:

- Information about other students;
- Financial records of parents;
- Confidential letters of recommendation if they waived their right to access.

When is prior consent not required?

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


- “School officials” with a “legitimate educational interest.” Employees and legal agents have access to education records in order to perform their official, educationally-related duties.
- Disclosure to another institution where the student seeks to enroll or is enrolled;
- Disclosure to organizations conducting studies to improve instruction, or to accrediting organizations;
- Disclosure to parents of *dependent students* (IRS definition) – Check to see how your institution expects parents to show IRS dependent status;
- To comply with a judicial order or lawfully issued subpoena’
- In response to a health/safety emergency; and
- To an individual/entity requesting only directory information

Some Specific Issues for Faculty and Staff

Posting Grades: Since grades can never be directory information, it is generally inappropriate to post grades in a public setting. However, it is acceptable for an instructor to post grades in such a manner that only the instructor and the individual student know the posted grade (e.g., with a personal ID). Grades should never be posted by any portion of the SSN or NSHE ID. It is also recommended that the posted list should not be in the same order as the class roster or in alphabetical order.

Web-based Tools to Support Classes: courses supported by class Web sites and/or discussion groups must take extra precaution to not inadvertently release non-directory student information. Only directory information can be available to the general public and other class members.

Letters of Recommendation – a person who in providing a letter of recommendation makes statements from that person's personal observation or knowledge do not require a written release from the student who is the subject of the recommendation. However, if the recommendation includes personally identifiable information from the student's educational records (grades, GPA, etc.), the writer is required to obtain a signed release from the student that:

1. specifies the records to be disclosed;
 2. states the purpose of the disclosure; and
 3. identifies the party or class of parties to whom the disclosure can be made.
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If the recommendation is kept on file by the person writing it, then it becomes part of the student's educational record and the student has the right to read it (through the inspection process) unless he/she has waived that right of access. If the letter is used for any purpose other than this recommendation, or shared with a colleague, the waiver is void.

PARENT ACCESS: At the post secondary level, parents have no inherent right to inspect their son's or daughter's education records. The right to inspect is limited solely to the student. If a faculty member receives a request from a parent for access to non directory and FERPA protected records, that request should be referred to the Office of the Registrar at extension 2110.

(*Parent* - with reference to FERPA, refers to either parent (including custodial and non-custodial if divorced).



What to do cases???

- ▶ ***Can you release a list of students enrolled in a given class ?***
 - You should not provide anyone with lists of students enrolled in your class(es) to individuals that do not have a legitimate educational interest. Refer any requests for information to the Office of the Registrar.

- ▶ ***A medical school admissions office wants to confirm that a NSU alum earned a 3.95 GPA in your department and graduated with Highest Honors. Can you confirm both facts?***
 - Honors conferred is designated as directory information and may be released to a third party. Grade point average could not be released without the student's written consent.

- ▶ *If a former student has applied for a position in my department, may I view his or her account?*
 - No. Accessing a Nevada State University student's record on-line for non-educational purposes, such as potential employment, is not permissible. Request a transcript from the student as part of an employment process.

Definite Don't do's !!!!

- ▶ *A student calls on the phone and asks for his/her own GPA or major GPA. Do you tell them?*
 - NO. Even if they give you their name, DOB, NSHE ID, SSN (you actually can't ask that one). You can never be sure who is on the other end of the line.

- ▶ *A student emails you and asks for GPA or major GPA, can you send it back?*
 - NO. One difference to remember that if they have e-mail access they can look up their own GPA. Unless they don't know their PIN and/or forgotten PIN questions.
- ▶ *A student comes to your office and asks to see his/her folder? Then asks for copies of transcripts you have used for advising purposes, can you give them copies?*
 - No. Students have the right to view, not the right to a copy. Refer the student to the Office of the Registrar for third party transcripts.

Questions?

Contact the Office of the Registrar

registrar@nevadastate.edu

702.992.2110