

## **Family and Education Rights and Privacy Act of 1974 (FERPA) Regents Policy 5.10**

Policy:

### 1. Scope of Policy

This policy governs all “education records” maintained by all campuses and the central administration of the University of Nebraska.

### 2. Purpose of FERPA; Definition of Education Records

- a. FERPA affords students certain rights with respect to their education records. FERPA defines “education records” as those records:

Directly related to a student; and

Maintained by an institution or a party acting for the institution.

- b. FERPA provides students who reach the age of 18, or who attend the University of Nebraska, with the right to inspect and review their own education records. Students also have the right to request an amendment to their education records and have some control over the disclosure of personally identifiable information contained in these records.
- c. FERPA applies to the education records of persons who are or have been in attendance at the University of Nebraska, including students in cooperative and correspondence study programs. The rights provided to students under the federal law set forth in FERPA do not apply to records of applicants for admission who are denied acceptance or, if accepted, do not attend the University of Nebraska; however, student application materials are not considered public records under Nebraska state law and will not be disclosed to the public except as permitted by law.

### 3. Records Not Covered By FERPA

The term "education records" does not include:

- a. Records which are in the sole possession of the maker and are neither accessible nor revealed to any other person, except a substitute who performs on a temporary basis the duties of the individual who made the records.
- b. Records maintained by a law enforcement unit of the University of Nebraska for the purpose of law enforcement. (Note other laws addressing campus security may also apply to law enforcement records.)
- c. Records relating to an individual’s employment at the University of Nebraska, when such employment is not based upon the individual’s status as a student; provided that the records are made and maintained in the normal course of business, relate exclusively to the individual’s capacity as an employee, and are not available for use for any other purpose.

- d. Medical and counseling records used solely for treatment. (Medical records may be reviewed by a physician of the student's choice.)
  - e. Records that only contain information about an individual after he or she is no longer a student (e.g. alumni records). Records of an individual while a student continue to be "education records" after the student leaves or graduates from the University of Nebraska.
4. Students Rights to Inspect and Review Educational Records
- a. Students and former students have the following rights:
    - The right to inspect and review their education records within 45 days of their request to inspect.
    - The right to a response to a reasonable request for an explanation and interpretation of the record.
    - The right to a copy of the education record when failure to provide a copy of the record would effectively prevent the student from inspecting and reviewing the record. The student may be charged a normal cost for copies, if such a charge does not effectively prevent the student from inspecting and reviewing the record.
  - b. The University of Nebraska is not required to permit a student to inspect and review education records, which contain:
    - Financial information submitted by parents.
    - Confidential letters and recommendations placed in their files prior to January 1, 1975.
    - Confidential letters and recommendations placed in their files after January 1, 1975, if: (1) the student has waived the right to inspect and review those records; and (2) the records are related to the student's admission to an educational institution or program, application for employment, or receipt of an honor.
  - c. If an education record contains information pertaining to more than one student, a review and inspection will only be allowed for that specific information pertaining to the requesting student.
5. Procedure to Inspect and Review; Challenges to the Record
- a. A student should submit to the registrar, director of registration and records, dean, head of the academic department, or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. The University official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the

records are not maintained by the university official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed. Compliance with an appropriate request for an inspection shall be made within no greater than 45 days.

- b. A student may ask the University to amend an education record that the student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA. If the student wishes to amend an education record, the student should write the University official responsible for the record, clearly identify the part of the record the student wishes to amend and specify why it should be changed. If the University official decides not to amend the record as requested, the student will be notified of the decision in writing and advised of his or her right to a hearing regarding the request for amendment. At that time, additional information regarding the hearing procedures will be provided to the student.
- c. The right to challenge grades is not covered by this policy, unless the grade assigned was inaccurately recorded in an education record, in which case the record will be corrected.

## 6. Consent to Release Education Records

Prior to releasing all or any part of an education record to a person other than the student to whom the record refers, consent must be obtained from the student. The consent must specify the information to be released, the reason for the release, and to whom it is to be released. The student may have a copy of the information released, if he or she desires.

## 7. Releases Without Consent

No consent from the student is required for the release of an education record or personally identifiable information under the following circumstances:

- a. A request for information in an education record or personally identifiable information by a "school official" determined to have a "legitimate educational interest" in the information. "School official" shall mean a person employed by any administrative unit (i.e., a campus or central administration) of the University of Nebraska in an administrative, supervisory, academic, research, or support staff position (including University law enforcement personnel and health center staff); a person or company with whom the University of Nebraska has contracted to carry out the duties related to a legitimate educational interest (including attorneys, auditors, and collection agents); employment or degree verification agencies such as the National Student Clearinghouse; a member of the Board of Regents; or those serving on committees or similar bodies charged to carry out tasks on behalf of the University of Nebraska. 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. Note that a school official located at one University of Nebraska administrative unit may have a legitimate educational interest in the educational records and personally identifiable information maintained at another administrative unit.
- b. Lawful compliance with a properly issued subpoena or court order.

- c. A request in connection with a student's application for financial aid.
  - d. A request by an organization conducting studies to develop, validate, and administer predictive tests, to administer student aid programs, or to improve instruction, on behalf of the University of Nebraska, if the studies do not permit the personal identification of parents and students outside of the study representatives, and the information is destroyed once it is no longer needed by the studies.
  - e. Information submitted to accrediting organizations.
  - f. A request of a parent of a dependent student, as established by Section 152 of the Internal Revenue Code of 1986.
  - g. In case of an emergency, if the knowledge of the protected information is necessary to protect the health or safety of students or other persons.
  - h. A request from authorized state or federal representatives in relation to a state or federal audit of government supported programs.
  - i. A request from an official of another school, school system, or institution of higher education in which a student seeks or intends to enroll; provided however, that the annual notice required by FERPA must include a statement that the University of Nebraska forwards education records to other agencies or institutions, in which the student seeks or intends to enroll, upon request of the agency or institution.
  - j. In the case of a crime of violence, the University of Nebraska shall provide to the victim, the results of any institutional disciplinary proceeding against the alleged perpetrator.
  - k. Requests for directory information, as more specifically discussed below.
8. Directory Information; Definition; Request for Non-Disclosure

- a. The University of Nebraska has defined the following student information as public directory information:

- student name
- local address
- permanent address
- telephone listings
- year at the University
- dates of attendance
- academic college and major field of study
- enrollment status (e.g. undergraduate or graduate; full-time or part-time)
- participation in officially recognized activities and sports
- degrees, honors and awards received
- most recent educational agency or institution attended

- b. Directory information will be available to the public upon request and may be included in student directories published electronically and in hard copy. However, students have the right to have directory information withheld from the public if they so desire. During the first two weeks of any semester, a student who wants his or her directory information to be withheld shall so indicate by completing a form obtained from the registrar's office or other office in charge of registration and records; provided however, that a form to withhold directory information may be submitted after the two week period, when a student for reasonable cause, such as personal threats, safety or health concerns, requests his or her directory information to be withheld. The student's request will be processed within a reasonable amount of time. Directory information already included in hard copy publications will be removed at the next printing of the hard copy publication.

#### 9. Parental Access to Children's Education Records

At the post-secondary level, FERPA provides few rights to parents to inspect a child's education records. The right to inspect and review is limited solely to the student/child. Records may be released to the parents only under the following circumstances:

- a. Lawful compliance with a properly issued subpoena or court order;
- b. The parent establishes that the student is a dependent according to Section 152 of the Internal Revenue Code of 1986; or
- c. The student provides a FERPA consent to the parental access.

#### 10. Job References for Students by Faculty

FERPA's prohibition on disclosure of personally identifiable information (other than directory information) applies to job references. This includes information about performance in class, grades, attitude, motivation, and ability, whether conveyed in writing, in person, e-mail or over the telephone to third parties.

Although such information is often conveyed by faculty members at the informal request of the student and is usually positive, the better practice would be to request a written consent form, meeting the FERPA requirements, before providing the information.

#### 11. Recordkeeping

Each administrative unit of the University of Nebraska has an obligation to keep a record of requests and disclosures of student record information, except when the request is from the student, a University school official with a legitimate educational interest, a request for directory information, or a request to which the student has given a FERPA consent. A student has the right to review the record of requests and disclosures made in relation to his or her education records.

#### 12. FERPA/Precedence

This policy is intended to comply with FERPA, the provisions of which and its related regulations, are incorporated herein as they exist at the time of this policy's adoption, and as they may from time-to-time be amended. Should it be determined that this policy is inconsistent with FERPA, or any other applicable law, the law shall take precedence.