

FERPA
"A Private Conversation"

FERPA Basics for
Faculty, Staff, and Administration

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Assoc Vice Chancellor, Student Services

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Some situations to ponder, , ,

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But How Long Did She Take?

"Hello. This is Wanda Nancire from ACME degree verification, and would like to verify whether or not Faye Ledemale earned her bachelors degree at IOU, as well as her major and date of conferral. Faye's SSN is 987654321; can you help me?"

IOU's Enrollment Services specialist, Yaz J. Kann, known for his cheerful demeanor and speedy response time, replied "Why yes Wanda, Faye earned her BA in Creative Attendance May 31, 1988. Is there anything else I can help you with?"

Since IOU has degrees and majors listed in their directory information, is this a FERPA problem?

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The Rest Of The Story

You have been contacted by the Admissions Director at IOU who requests any pertinent information on a Ms. D Meaner, one of your former students who is in her first semester at IOU. The Director also sent a copy of the transcript from your institution that D submitted as part of her application for admission. In reviewing the copy, you determine that it is a fraud, and definitely has been tampered with. D also had a very dubious record at your institution, and actually was on disciplinary probation. Wanting to set the record straight, you fax the disciplinary record to the Admissions Office, as well as verifying that the transcript is bogus. "Foul!" D proclaims, and files a complaint with the FERPA Compliance Office against BOTH institutions, stating that she did not sign a release to allow the sending of any of those records between the schools.
Was this a FERPA violation?

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What a Great Student!!!

Thinking it would be great to let the entire office know about the great student *Intex* who is working this semester, Director Ben B. Bhumor decided to put an article in the weekly newsletter that was distributed throughout the office, the library, and administrative offices. The article was very complimentary, including the following text:

"Sue Parr is an outstanding Chapman student, coming from Shangre, LA. Sue is a junior Liberal Studies major, is an honor student with a 3.76 gpa, has served as the student body president, softball team, and has plans to go into University Advancement after she completes her degree. Please stop by and welcome her!!"

Surprise! Sue has filed a complaint with the Compliance Office, stating that she has a directory hold, and did not approve any release of information.

Do we have a problem?

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The Reference Letter

"Hello Dean Aige. Can you send out a letter of reference for me to Sub Prime Mortgage" the email stated. "I've got a great job opportunity and if you could send this out today I would really appreciate it". The email came from a former advisee and student intern assigned to the dean.

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Surprise! Student files a complaint saying she didn't approve of what was stated in the letter (obviously she didn't get the job). Do we have a problem?

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We Have To Lick All 10,000 Envelopes?

Wanting to do their fair share to meet the \$3 Billion goal, the Alumni Office decides a "Please Dig Deep" mailer to all alumni might generate some positive results. Looking at over 10,000 in the database, if this is to be done quickly the only possible solution is to work with an outside vendor to do the letter generation, determine updated addresses, stuff and mail. "No problem" says the vendor. However, in order for the vendor carry out the project, they requested student names, SSN, most recent address, graduation date, rank in class, and gpa. "No can do" says the IR person. "To release that information to a vendor would be a FERPA violation".

True?

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Not knowing what else to do, immediately following the incident the professor went to the public safety offices and reported the exchange, as well as the previous classroom discussions and the content of the papers. Public safety immediately contacted the Dean of Students office, Counseling Center, and Residence Halls.

Are there any FERPA problems here, knowing that references were made observations and maintained education records?

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What is FERPA All About?

(Family Educational Rights and Privacy Act)

FERPA provides students guarantees regarding access to and confidentiality of their education records, including their

- Right to access
- Right to challenge contents
- *Right to control over disclosure* -which has the most significant impact on how we deal with educational records

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*Why Should We Care?
(and train others to care)*

- Federal Regulations: First defense
- Increased demands for information
- Decentralized access expands the definition of school official
- Increasing concerns over student safety
- Because it is the right thing to do

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Remember--

The primary causes of FERPA violations related to unauthorized release of information are

- Accidental release
- Offenders not knowing the regulations and their responsibilities

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Key Definitions

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Key Definition: Student (post-secondary)

- Institutionally Defined: may start with applicants, admits, or matriculants (actually attending as of the first day of the term). Typically matriculants
- Includes credit and non-credit, degree or non-degree seeking, all residencies, all ages
- Acquire all FERPA rights at the time they become a "Student" (note: parents lose all right of access to educational records of students at post secondary institutions); retain FERPA rights until deceased.

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99.3: Attendance

Definition:

Old: "Attendance in person or by correspondence."

New: "Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom."

Additional Discussion: "We do not agree that the definition of attendance should be limited to receipt of instruction leading to a diploma or certificate, ,," - DOE

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Key Definition: Student

Chapman Definition: an individual officially enrolled, effective the first day of their first semester/term.

This applies to all students of whom we maintain education records, regardless if they are taking credit and/or non-credit courses; are degree or non-degree seeking; all residencies; all ages.

These individuals acquire all FERPA rights at the time they become a student; they retain their FERPA rights until deceased.

(Note: parents lose all right to access education records of their student(s) at the post secondary level, regardless of the student's age; all rights move to the student)

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Key Definition: Educational Record

With certain exceptions, all records identifying students maintained by the university in any medium

Exceptions:

- Law Enforcement records
- Treatment records
- Alumni records
- Employment records
- Sole Possession

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Education Records: Alumni Records

With respect to former students, education records exclude records that are created or received by the University after an individual is no longer a student in attendance and the records are not directly related to the individual's attendance as a student.

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Education Records: Peer Grading

Peer Grading

Peer graded papers that have not been collected and recorded by a teacher are not considered maintained by an educational institution and, therefore, are not education records under FERPA.

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Key Definition: School Officials

School officials are individuals or groups providing a necessary service for or on behalf of the University. They have no inherent rights re: accessing educational records. School officials may access education records based upon need in order to carry out their responsibilities for the University- 'legitimate educational interest'.

School officials are equally responsible for following FERPA regulations, and re-disclosure requirements whenever accessing student education records.

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School Officials

Other School Officials

Include contractors, consultants, volunteers, and other outside parties to whom the University has outsourced institutional services or functions and who may have access to student education records. Such entities must meet the following criteria:

- they provide an institutional service or function that the University would otherwise use employees to perform
- they have "legitimate educational interest" in the education records to be accessed
- in providing the specified services the party is under the direct control of the University
- they are subject to the same re-disclosure conditions applicable to all school officials
- any new student records created and maintained by the outside service provider are education records that belong to the University
- are referenced to in the annual notification

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Key Point To Remember, , ,

Nothing in FERPA prohibits a school official from sharing information that is based on that official's personal knowledge or observation and that is not based on information contained in an educational record.

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Annual Notification

The Annual Notification is mandatory information made available to students about their FERPA rights. The University Annual Notification resides on Registrar's website; a reminder & location is included in the registration email sent to all students each session.

The notification includes-

- Right & method to inspect & review
- Right & method to seek amendment
- Right to comment other than 99.31 exceptions
- Right to file a complaint with Dept of ED
- Definition of school official
- Definition of legitimate educational interest
- Directory information

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Student Rights to Review Records

Upon request we must allow students access to their records as follows:

- Students must be allowed access within 45 days
- We cannot destroy the record once requested until after the student is provided access
- Students do not have the right to access the following
 - parent financial information
 - confidential documents submitted for admission and/or financial aid purposes of which the student waived the right to access, so long as the documents have not been used for purposes other than the original submission
 - education records of the student that contain information on other students

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Student Access

We are not required to provide students a copy of their education records; we are required to provide them access to their education records. However, if circumstances effectively prevent the student from exercising the right to inspect and review the student's education records, the University shall-

- Provide a copy, or
- Make other arrangements to inspect & review (contact The Registrar's Office about this possibility)

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Student Right to Control Access: Consent Required

Other than those exceptions listed in section 99.31 of the FERPA regulations, in order for the University to release student education record information the student must provide a signed release stating which record(s) may be released, to whom records may be released, and the purpose of the release. An 'approved signature' is defined as:

- the student's written signature presented directly to the university;
- the student's written signature authorizing the release of the information submitted to a third party;
- the student accessing WebAdvisor via the user name and password authenticating the request.

Note: email is not considered a signature of release; however the sending of an email with a pdf attachment which includes the signature would be acceptable. A standard release form is available on the Registrar's website.

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99.31: Key Exceptions not requiring signature of release

The university may disclose education records without consent to the following exceptions (there are more; these are most common). Note the key word is 'may'; we are not required under FERPA to release to anyone other than the student.

- School officials having legitimate educational interest
- Institutions of post secondary education where the student seeks to enroll or is enrolled
- For financial aid verification purposes
- Judicial order/subpoena
- Health & safety emergencies
- Result of disciplinary proceedings
- Sex offender
- Directory information
- The student (reiterates student rights to access without need for signature)

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When May We Release Education Records to Parents Without the Student's Written Permission?

- In connection with a health or safety emergency
- If the student is under the age of 21 and has violated a law or an institutional rule of policy governing the use or possession of alcohol or a controlled substance
- If the disclosure falls within any other exception to the consent requirement in 99.31 (a) of the regulations, such as the disclosure of directory information or in compliance with a court order or lawfully issued subpoena.
- Though allowed by the regulations, the University does not release information to parents based solely upon dependency status or age of the student.

In all exceptions listed FERPA does not require us to release information; that is an informed choice.

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Disclosure of records to institutions previously attended

FERPA allows the University to return transcripts, recommendations, etc that appear to have been falsified back to the institution or school official identified as the creator/sender in order to confirm authenticity. If we are the creator or sender of an education record and are contacted by another institution to determine authenticity, we may confirm or deny the accuracy of a record, and send a correct version. Consent from the student is not required.

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Directory Information

Directory Information: records which are neutral or not necessarily harmful if released to third parties, the list of which must be specified to all students. The University has in the Annual Notification the list of directory information that we may release without the student's signature. Examples of releases utilizing directory information include commencement bulletins, event programs, dean's lists, etc. Please note that release not required, we may do so arbitrarily or capriciously. Normally we do not release directory information to outside parties simply because they request it.

Additional Important points:

-Students may opt out of the release of directory information by submitting to the Registrar's Office an official "Directory Hold" request. Such requests are noted in Dstatel and automatically come on the screen whenever a school official accesses that student's information in Dstatel. It does not show on WebAdvisor however.

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Opting Out of Directory Information

Opting out of Directory Information - "Directory Hold" - means that the university cannot divulge to the outside world that the student is in attendance, or even attend at the institution. It is designed to protect students and/or their loved ones due to a security/safety issue or threat. In such cases if a student with a directory hold wants the University to release directory information, a student signature of release would be necessary.

If school officials receive requests for directory information regarding a student with a directory hold, the allowable response is "I'm sorry but I have no information to provide on that individual". If the requester persists, direct the request to the Registrar's Office.

Opt out of directory information does not prevent an educational institution from disclosing or requiring a student to disclose the student's name, electronic identifier, or institutional email address in the classroom - regular or virtual- if the information is in a secure environment.

Opting out does not pertain nor nullify school officials having access to student educational records or release based upon another 99.31 exception.

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Use of SSN As An Aide in Directory Confirmation

FERPA regulations prohibit the University from disclosing or confirming directory information if the requestor provides an SSN to identify or help identify a student or the student's records unless the student has provided written consent in accordance with FERPA. Otherwise by disclosing or confirming based upon an SSN we have also confirmed the SSN, which would be a FERPA violation since SSN can never be considered Directory Information.

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Best Practices for School Officials

- To avoid accidental FERPA violations, remember these guidelines:
 - Only provide requested information to student if request occurs with third parties present (or request meeting at another time in private)
 - Check for signed release on file - typically in Registrar's Office - before discussing student educational record/progress information with non-school officials e.g. parents, spouses, employers, landlords, etc
 - Remember to request signed release from student for all letters of recommendation, good student status information, etc that require non-directory educational record information.
 - Close files, computer screens, cover papers, close office door, etc whenever leaving work station or when non-school officials may be present so that third parties do not have access to student educational record information
 - Do not post lists of information containing student educational records (grade lists, credits completed, ethnic/religious groups)

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Best Practices, continued

- Telephone requests for information: although signature is not required to release educational record information directly to the student, school official must make certain that it is the student making the request. If identity cannot be determined, do not comply over the phone. Immediate release of information is not required (FERPA allows up to 45 days). Insure FERPA protection before release.
- Contact Registrar's Office or check administrative software for directory holds before releasing directory information; do not indicate to requestor that student is in attendance.
- "Office Audit": Make certain that fax machines, printers, copy machines, computer screens are not in public environment or positioned as such so that third parties do not have access to student educational record information
- Providing student access to their educational record information usually does not require that you give them a copy. Never provide copies of transcripts from previous institutions.
- Unsure? Contact the Registrar

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Closing, , ,

- Office FERPA "Audit"
- Follow-up Meetings re: procedures
- Remember: "It is the right thing to do"
- Web Site:
<http://www.chapman.edu/registrar/PrivacyIndex.html>
- snodgras@chapman.edu (if all else fails)

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- Effective, regular training for school officials*
- Regular Office audits reviewing physical environment*

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