

FERPA



Family Educational Rights and Privacy Act

What is FERPA?

The **F**amily **E**ducational **R**ights and **P**rivacy **A**ct of 1974.

- Also known as the *Buckley Amendment*, this Federal law **protects the privacy and accuracy of student educational records**.
- The Act provides eligible students the right to:
 - Inspect and review educational records
 - Right to seek to amend those records
 - Limit disclosure of information from the records
 - File a complaint with the US Department of Education's Family Policy Compliance Office
- The law applies to *all schools* that receive funds under an applicable program of the U.S. Department of Education.

https://www.utmb.edu/enrollmentservices/pdf/Gen_Info_Catalog_2012-14_rev2-4-14.pdf

Key Terms

- **Directory Information**-information contained in an education record that would not generally be considered harmful or an invasion of privacy if disclosed. Students at UTMB may, however, elect to withhold directory information by completing a form available through the Enrollment Services or online through Campus Solutions Self Service. When a student requests his/her directory information be withheld that information will be treated as confidential and released only with a valid consent or as otherwise provided by law.

Key Terms

UTMB has designated as **directory information** are as follows:

- Student's Current Name
- Date of Birth
- Current Enrollment Status
- Address (Home and Permanent)
- E-mail addresses
- Campus or Local Telephone Number
- Student's Classification
- Previous Institutions Attended
- Major Field of Study
- Dates of Attendance
- Anticipated Date of Graduation
- Degree(s) Conferred and Date(s) of Graduation
- Honors and Awards
- Photographs
- Student's Participation in Recognized University Activities
- Postgraduate Training Site for M.D. and Ph.D Graduates and Degree Candidates

Key Terms

- **Non-Directory Information-** Private (non-directory) information is information contained in an educational record of a student that generally would be considered harmful or an invasion of privacy if disclosed. Student information that is considered private must be protected at all times.

Examples of private information include, but are not limited to:

- Social Security Number
- Campus identification number
- Place of birth
- Ethnicity
- Residency status
- Advisor's name
- Academic actions
- Current class schedule and courses completed
- Grades and related information
- Disciplinary actions
- Balance on account

Key Terms

- **Education Record-** records that are maintained by UTMB and directly related to a student, including but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.
- **Eligible Student-** student who has reached age 18 or is attending an institution of postsecondary education
- **Legitimate Educational Interest-** 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 responsibility; performing a task related to a student's education; performing a task related to the discipline of a student; providing a service or benefit relating to the student or student's family, such as health care, counseling, job placement, scholarship, or financial aid; maintaining the safety and security of the campus.

Key Terms

- **Personally Identifiable-** information that directly identifies a student or would make the student's identity easily traceable
- **School Official** – School officials are defined as follows:
 - A person employed by the University in an administrative, supervisory, academic or research, or support staff position, including law enforcement personnel and health or medical staff.
 - A person serving on the Board of Regents.
 - A person or company under contract to the University to perform a service or function, instead of using University employees or officials (such as an attorney, auditor or collection agent).
 - A student serving on an official committee, such as a disciplinary or grievance committee, or who is assisting another school official in performing his/her tasks

Who is Protected Under FERPA

- FERPA protects the education records of students who are currently enrolled or formerly enrolled regardless of their age or status with regard to parental dependency.
- Education records of prospective students who have applied but not yet attended are not subject to FERPA guidelines.

Student Rights Under FERPA

Under FERPA students have the right to:

- **Inspect and review** their education records (with some exceptions) within 45 days of the day the University receives a request for access
- **Be notified annually** of their FERPA rights
- **Request an amendment** to the student's education record if the student believes that the record is inaccurate, misleading or in violation of the student's privacy rights
- **Request a hearing** to challenge the content of the student's education record on the grounds that the information is inaccurate, misleading, or in violation of the student's privacy rights.
- **Consent to disclosures** of personally identifiable information contained in the education record.
- **File a complaint** with the U.S. Department of Education concerning alleged failures by the University to comply with FERPA.

What are Educational Records?

An educational record is any record in any medium maintained by UTMB that is directly related to a student.

Examples include, but are not limited to:

- Documents with a student's name and ID number
 - Class rosters
 - Grade lists
 - Student employment records
 - Student disciplinary records
 - Student information displayed on a computer screen
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- An educational record is any information about a student that is shared or stored in an area accessible by others.
 - Educational records are stored in the Office of the Registrar and other locations around campus.

What are **NOT** Educational Records?

- Personal notes of UTMB faculty and staff
- Medical and counseling records used solely for treatment
- University Police records
- Grades on peer-graded papers before they are collected and recorded by an instructor
- Alumni records
- Financial records of a parent or spouse
- Confidential letters and statements of recommendation for admission, employment, or honorary recognition, which the student has waived the right to inspect and review
- Observable behavior

Parents Rights Under FERPA

- Parents, like anyone else, have the right to directory information provided there is no FERPA Hold.
- Parents may have access to their student's education records, providing:
 - The student is under 18 and they claim the student as a dependent, as defined by the Internal Revenue Code, on their most recent federal income tax return.
 - In cases of divorce, both parents have the same FERPA rights as long as the parent claims the student as a dependent.
 - Each request from a parent must include a copy of the top portion of the parent's most recent federal income tax return showing the student's name and social security number listed as a dependent.
- Students may also provide written consent to allow parents access to academic information.
- In emergency or safety situations, appropriate non-directory information may be released to the parents.

Are there Limitations on what a Student May Inspect?

Yes. The following are excluded from inspection and review:

- Financial information submitted by parents
- Confidential letters of recommendation placed in the student's record
- Education records of other students if the record contains information of more than one student (any other personally identifiable information pertaining to another student must be redacted prior to inspection or review)
- Medical and psychiatric records
- Records of law enforcement that are created by a law enforcement unit, created for a law enforcement purpose, and maintained by a law enforcement unit
- Records that are kept in the sole possession of the maker, and are used as a personal memory aid and are not accessible to other individuals
- Employment records of an individual who is employed as faculty or staff as maintained in the normal course of business, relate exclusively to the individual's capacity as an employee, and are not available for any other purpose.

Releasing Information From Student's Education Record

The University must have written permission from the student, or eligible guardian, to release any information from a student's education record - *unless* the law provides an exception that permits disclosure without the student's consent.

Written consent must contain the following information:

1. Student's name *and* signature
2. Date
3. Purpose of the request
4. Description of the records that the employee may disclose
5. Person/entity to whom information should be released

Exceptions

The University may release, *without* written consent:

- Public or directory information, unless otherwise requested.
- In the case of an emergency, to appropriate parties - in order to protect the health and safety of the student and other individuals.
- School officials with legitimate educational interests.
- Other schools to which a student is transferring.
- Specified officials for audit or evaluation purposes.
- Appropriate parties in connection with financial aid to a student.
- Organizations conducting certain studies for, or on behalf of, the school.
- Accrediting organizations.
- A person serving on the Board of Regents.
- To comply with a judicial order or lawfully issued subpoena.
- Appropriate officials in case of health and safety emergencies.
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

What do Faculty Need to Know

Grades

- The public posting of grades, either by the student's name, institutional student identification number, social security number, or personally identifiable or easily traceable information to the student *without the student's written permission is a violation of FERPA*. This includes the posting of grades to a class/institutional website and applies to any public posting of grades for students taking distance education courses.
- **Faculty/Staff Sending Grades via E-mail:** There is no guarantee of confidentiality in transmitting information electronically via campus e-mail or through the Internet. Faculty/Staff who wish to send grades to students via e-mail need to understand that if there is an unauthorized release of grades to someone who is not a school official, *the institution would be in violation of FERPA* if the student whose grades were illegally disclosed filed a complaint with the *Family Policy Compliance Office*.

What do Faculty Need to Know

Personal Notes

- Personal notes you make about a student should be stored in a separate file from the student record. Personal notes, if not shared with anyone or accessible by others, are not considered educational records and are not subject to release under FERPA.

Letters of Recommendation

- Letters of recommendation do not require consent from the student if statements are based on your personal observation or knowledge. If the letter of recommendation is based on non-directory information (private), it is appropriate to obtain written consent from the student prior to producing the letter.
- If the letter of recommendation is kept on file in the department, it becomes part of the student's educational record. In addition, the student has the right to read it unless he or she has waived that right to access. Letters kept within the sole possession of the author and not shared with others are not considered educational records.

FERPA Dos

- DO check with Records & Registration before disclosing any student educational record information to third parties outside the institution.
- DO refer all subpoenas or other legal process requests for education records to Records & Registration.
- DO maintain the privacy of all student academic work (paper and electronic) at all times - at work, at home, and in transit. Make sure you protect all education records in your possession. This includes paper documents in your office such as computer printouts, class lists, display screen data and advising notes. You should not leave these items out in open areas, but store them out of sight, preferably in a locked cabinet or drawer when not in use.
- DO dispose of confidential student information in a secure manner and in accordance with University retention policies.

FERPA Don'ts

- DO NOT release a class schedule to locate a student. Refer any inquires regarding a student's class schedule or inquires about students to Enrollment Services.
- DO NOT share by phone or correspondence information from the student educational records, including grade point averages or letters of recommendation, with parents or others outside the University without written permission from the student.
- DO NOT put purely personal notes in the student's file, because those notes will become accessible to the student. Such records can be kept confidential only if they are kept in the sole possession of the maker and are not accessible or revealed to any other person.
- DO NOT allow students to pick up their academic work by sorting through materials that include classmates' work.

FERPA Don'ts

- DO NOT use or circulate printed class lists/rosters that include student IDs (or non-directory information) for attendance purposes.
- DO NOT use student personal information, including name, ID and/or SSN, for the public posting of grades or for any other use.
- DO NOT put papers, homework sets, exams, lab reports, etc. containing student names and grades in publicly accessible places.
- DO NOT share student educational record information, including grades or grade point averages, with other faculty members. Other faculty members must have official responsibilities with a legitimate educational interest.

Website References

UTMB FERPA Policy

<http://www.utmb.edu/enrollmentservices/ferpa.asp>

US Department of Education FERPA guideline

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

FERPA flag in Campus Solutions

If a student has indicated a HOLD on release of Directory Information, this icon will appear in their record.

When you choose/click the flag icon, the following information is provided.

The screenshot shows the 'Add/Update a Person' form in Campus Solutions. The student's name is 'Test,Leann TestCarmical' and the Campus ID is '000200743'. A red circle highlights a flag icon next to the 'Names' link. The form includes sections for 'Person Information', 'Biographical History', 'National ID', and 'Contact Information'. The 'Person Information' section shows 'Date of Birth: 03/29/1975' and 'Campus ID:'. The 'Biographical History' section shows 'Effective Date: 01/07/2011', 'Marital Status: Unknown', and 'Gender: Female'. The 'National ID' section shows 'Country: USA' and 'National ID Type: Social Security Number'. The 'Contact Information' section shows 'Address Type: Home', 'Effective Date: 07/26/2010', 'Status: Active', 'Country: US', and 'Address:'. There are also fields for 'Phone' and 'Email'.

The screenshot shows the 'Releasable FERPA Directory Information' page. The text reads: 'This student has indicated a HOLD on release of Directory Information: As per UTMB FERPA policy located at <http://www.utmb.edu/enrollment/services/about/FERPA.html> : Please note: UTMB designates the following as directory information: student's name (including previous names); campus phone and campus address; email address; previous institution(s) attended; major field of study; dates of attendance; degree(s) conferred and date(s) of degrees(s) (including degrees from previous institutions); honors and awards; photographs; participation in officially recognized activities; and postgraduate training site for M.D. graduates and degree candidates.' Below the text is a 'Return' button.