

# ADHERENCE TO FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

**Sponsor:** Office of Academic Affairs

**Contact:** Office of the Registrar

**Category:** Information Security and Technology

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**Implementation History:** April 23, 1977 (original implementation), revised January 2006, January 2019 and July 2020

**Keywords:** Family, rights, privacy, records, transcript

**Background Information:** None.

## Purpose

The Family Educational Rights and Privacy Act of 1974, as amended, ("FERPA" or "Act") was designed primarily to ensure that educational records would be maintained in confidence and available to eligible students for inspection and correction when appropriate and that any such recorded information would not be made freely available to individuals outside the school without consent or as otherwise allowed by law. Both current and former students have the right to inspect and review all education records related to them that are maintained by the school or a person acting for the school.

## Definitions

**Directory Information:** information contained in an education record of a student that would not generally be considered harmful, an invasion of privacy, and as further defined below.

**Education Records:** those records that are directly related to a student and are maintained by an education agency or institution or by a party acting for the agency or institution. Education records can exist in any medium, including, without limitation: typed, computer generated, videotape, audiotape, film, microfiche and email, among others.

However, education records do not include such things as:

- Records of instructional, supervisory, and administrative personnel which are in the sole possession of the maker thereof, and which are not accessible to other persons.
- Information obtained through personal knowledge that is not recorded.
- Employment records, unless employment is contingent upon attendance (e.g. work study, graduate assistants).
- Records created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or para-professional that are used only in connection with the provisions of treatment of a student and are not available to persons other than those individuals providing such treatment.
- Records and documents of a law enforcement unit, except those available under the Freedom of Information Act.
- Financial records of a student's parent.
- Alumni records.
- Letters of recommendation or reference received after January 1, 1975 for which the rights of inspection have been waived.
- Thesis or research papers.

- Records that only contain information about an individual after the individual is no longer a student at the institution.

**Eligible student:** A student who is 18 years of age or older or who attends a postsecondary institution at any age.

**School Officials:** Members of the University who act in the student's educational interest within the limitations of their "need to know." These may include faculty, administrators, SUNY System Administration staff, clerical and professional employees and other persons who manage student education record information including student employees or agents. It may also include the university's contractors, volunteers, and others performing institutional functions.

**Legitimate Educational Interest:** A school official has a legitimate educational interest if the official requires the information in order to fulfill his or her professional responsibilities for the university.

## Statements

Pursuant to FERPA, Empire State University ("University") undertakes the following:

1. The University will inform current students no less than annually of their rights under the Act and its implementing regulations by such means and at such times as are reasonably likely to inform them of those rights.
2. Students may request to examine their education records by submitting in person or a written request to the Registrar. Proper photo identification is required for in-person requests (e.g., Empire State University identification card). Written requests must be notarized. The University will comply with such requests within a reasonable time not to exceed 45 calendar days from receipt of the request.
3. If the student requests copies of their education records, the following fee schedule will apply: unofficial or official transcript \$10, all other education records \$.50/page. While the University may not generally deny access to the records, under certain circumstances it may have cause to deny a request for a copy of a student's education records.

Types and locations of education records routinely maintained by the University, and the officials responsible for some or all of them are as follows:

- a. Admissions Records: Admissions Office; Note: FERPA protection does not apply to applicants. However, upon official enrollment of student, admissions records are transferred to the Office of the Registrar.
- b. Academic Records: Office of the Registrar – the University Registrar
- c. Official Empire State University Transcripts: Office of the Registrar – the University Registrar
- d. Financial Aid Records: Financial Aid – Director of Financial Aid
- e. Billing Records: Student Accounts – Senior Director of Student Accounts
- f. Graduate and Inactive Academic Student Records: Office of the Registrar – the University Registrar

4. The University will not disclose personally identifiable information from a student's education records without prior written consent of the student except as permitted by the Act or as may otherwise be required by law.

### When Student Consent is not Required for Disclosure of Education Records:

Under FERPA, prior consent by the student is not required when disclosure is (one or more of the following):

1. To other school officials, including teachers, within the University whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the University has outsourced institutional services or functions, provided that the conditions listed in § 99.31(a)(1)(i)(B) (1) - (a)(1)(i)(B)(3) are met. (§ 99.31(a)(1)).
2. To officials of another school where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of § 99.34. (§ 99.31(a)(2)).
3. To authorized representatives of the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as a State postsecondary authority that is responsible for supervising the university's State-supported education programs. Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§ 99.31(a)(3) and 99.35).
4. In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§ 99.31(a)(4)).
5. To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§ 99.31(a)(6)).
6. To accrediting organizations to carry out their accrediting functions. (§ 99.31(a)(7)).
7. To parents of an eligible student if the student is a dependent for IRS tax purposes. (§ 99.31(a)(8)).
8. To comply with a judicial order or lawfully issued subpoena. (§ 99.31(a)(9)).
9. To appropriate officials in connection with a health or safety emergency, subject to § 99.36. (§ 99.31(a)(10)).
10. Information the school has designated as "directory information" under § 99.37. (§ 99.31(a)(11)).
11. To a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, subject to the requirements of § 99.39. The disclosure may only include the final results of the disciplinary proceeding with respect to that alleged crime or offense, regardless of the finding. (§ 99.31(a)(13)).
12. To the general public, the final results of a disciplinary proceeding, subject to the requirements of § 99.39, if the school determines the

student is an alleged perpetrator of a crime of violence or non-forcible sex offense and the student has committed a violation of the school's rules or policies with respect to the allegation made against him or her. (§ 99.31(a)(14)).

13. To parents of a student regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the school, governing the use or possession of alcohol or a controlled substance if the school determines the student committed a disciplinary violation and the student is under the age of 21. (§99.31(a)(15)).

### Disclosure of Directory Information

Institutions may disclose "directory information" about a student without violating FERPA. At the University, directory information is defined as:

- a. name
- b. address
- c. phone number
- d. dates of attendance
- e. most recent previous educational institution attended
- f. major area of concentration
- g. degree and awards earned
- h. participation in officially recognized university activities
- i. date and place of birth
- j. email address
- k. enrollment status

The student may restrict the release of all or part of the directory information by following the procedures specified in the University's annual FERPA notice.

### Procedures for Requests for Information

All units of the University will operate under the following procedures with regard to requests for information:

1. Incoming Phone Requests: Only directory information items d, f, and g will be released over the phone to persons outside the University.
2. Written Requests: Directory information will be released by the university registrar in response to requests on official letterhead to persons having legitimate reason(s) for requesting the information. If additional information is requested, the student will be notified and release requested.
3. In-Person Requests: Directory information will be released to those who have proper photo identification and legitimate reason for requesting the information.
4. All other non-directory information will be released only by the Office of the Registrar with the prior consent of the student unless as otherwise may be allowed by the Act.
5. The Office of the Registrar will maintain a record in the student's file of all requests for, and disclosure of, personally identifiable information (other than directory information) from a student's education records as specified in the Act. This record may be inspected by the student.
6. Students may request to amend their education records if they believe information contained therein is inaccurate, misleading, and/

or violates their privacy or other rights. If such a request is refused, the University will so inform the student and advise the student of the right to a hearing to be held within a reasonable time as described in the Act.

7. All units of the University will endeavor to maintain printed student education records in lockable file cabinets, preferably in lockable rooms. Similarly, electronic files will be maintained in such a way as to ensure maximum security and to provide access only to duly authorized personnel. The length of storage and destruction of education records will be in accordance with State University of New York policy and procedures.
8. Copies of this policy and of the Act will be available online and paper copies will be on file in all physical locations of the University and will be made available to eligible students upon request.

## Applicable Legislation and Regulations

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)

## Related References, Policies, Procedures, Forms and Appendices

Requests can be made to Registraroffice@sunyempire.edu or Phone: 800-847-3000

The Annual Notification to Students (<https://www.sunyempire.edu/registrar/forms-services/privacy-rights/ferpa-annual-notification/>)

Authorization to Release Information Form (<https://www.sunyempire.edu/registrar/forms-services/release-info/>)

Request to Prevent Disclosure of Directory Information Form (<https://www.sunyempire.edu/registrar/forms-services/disclosure-directory-info/>)

More information can be found on the registrar's webpage (<https://www.sunyempire.edu/registrar/forms-services/privacy-rights/>)