

# FERPA - Family Educational Rights and Privacy Act

## UW-Whitewater Policy Statement

Interpretations of the Family Educational Rights and Privacy Act of 1974 (also known as FERPA or the Buckley Amendment) have important implications for the handling and releasing of student education record information by campus offices and school officials. FERPA applies to the “education records” (see next paragraph for definition) of “students”. “Students” are defined as those individuals who are or have been enrolled in classes (credit and/or non-credit) at the University. FERPA does not apply to records of applicants for formal admission to the University who are denied acceptance or, if accepted, do not enroll in classes for credit. In addition, rights are not given by FERPA to students enrolled in one component of UW-Whitewater who seek to be admitted in another component (e.g., a student enrolled in an undergraduate program, but is denied admission to a graduate program, does not have any FERPA rights in the graduate program which denied him/her admission).

“Education records” are those UW-W records that are directly related to a student and that are maintained by the University or by a school official who serves the University in an administrative, supervisory, academic, research, or support staff position (including student employees or agents of the University, persons/companies with whom the University has contracted, persons serving on official campus committees, or persons assisting other school officials in performing their tasks).

FERPA indicates that UWW “education records” do not include:

- Sole possession records. Records of instructional, supervisory, administrative, and certain educational personnel which are in the sole possession of the maker and are not accessible or revealed to any other individual except a substitute who performs on a temporary basis the duties of the individual who made the records.

Important exception: Notes taken in conjunction with any other person are not “sole possession records”. Sharing information with another person or placing information where it can be viewed by others makes it an “education record” and subject to FERPA.

- Law enforcement unit records. Records maintained by a UWW law enforcement unit that were created by that unit for the purpose of law enforcement.

Important exception: Placing law enforcement records where they can be viewed or accessed by others outside the law enforcement unit makes them “education records” and subject to FERPA.

- Employment records. Records relating to individuals who are employed by UW-W which are made and maintained in the normal course of business and relate exclusively to individuals in their capacity as employees, and are not available for any other purpose.

Important exception: Records of students who are employed as a result of their status as UW-W students are “education records” (e.g., work-study, graduate assistants) and subject to FERPA.

- Doctor-patient privilege (medical) records. Records relating to a student which are (1) created or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in his/her professional capacity or assisting in a paraprofessional capacity; (2) used solely in connection with the provision of treatment to the student; and (3) not disclosed to anyone other than individuals providing such treatment, so long as the records can be personally reviewed by a physician or other appropriate professional of the student’s choice.
- Post-attendance records. Records that contain only information relating to a person after that person is no longer a student at UW-W (e.g., information gathered on the accomplishments of alumni).

UW-Whitewater, in accordance with FERPA, has designated the following categories of information about individual students as public “directory information”. This information will be routinely released to any inquirer unless the student formally requests that it be restricted:

- Student name
- Address
- Email address
- Telephone number
- Dates of attendance (including term units carried and full-time/part-time status)
- Classification (e.g. sophomore, senior, graduate student)
- Major/minor/degree program
- Degrees and dates of graduation including anticipated graduation dates
- Previous institutions attended
- Awards and academic honors
- Participation in officially recognized sports and activities;
- Physical factors (weight and height) of members of athletic teams.

A student has the right to restrict the release of all of the above directory information. A student who wishes to do so must complete and file the “Request To Prevent Disclosure Of Directory Information” form in the Registrar’s Office, Roseman Building room 2032. The restriction will remain in effect until the student files written notification with the Registrar’s Office to have it removed. A student who has ceased attending UW-W, and whose directory information was not restricted in his/her last term of attendance, does not have the right to restrict the release of directory information until such time as he/she re-enrolls at the University.

A student who is considering restricting the release of his/her “Directory Information” should weigh carefully the consequences of doing so. If a student decides to inform the University to not release his/her directory information, future requests for such information from non-University persons or organizations will be refused. For example, UW-W would not release

enrollment verification information to the student's health insurance provider or a prospective employer, and the student's name would not appear in the commencement booklet.

In addition to the items listed above, UW-Whitewater has designated photographs and images that are taken of students at university-sponsored activities as information that may appear in university publications, brochures, etc. without the written consent of students.

## **CONFIDENTIALITY OF STUDENT EDUCATION RECORDS** **AND** **STUDENT ACCESS TO EDUCATION RECORDS**

The essence of FERPA can be summarized by the following two points:

- **CONFIDENTIALITY** – School officials must protect the privacy of education records and shall not disclose personally identifiable information about a student or permit inspection of the student's records without his/her written consent unless such action is covered by certain exceptions permitted by FERPA. The student's written, signed consent must:
  - Specify the records to be released;
  - Identify the party or class of parties to whom the records should be released;
  - Indicate the reason for the release.

A consent form can be downloaded from the web at: <http://www.uww.edu/registrar/> (under the FERPA section, click on "Authorization to Release Records").

- **ACCESS** – A student must be permitted to inspect his/her own education records (see "Student Access to Education Records" section for information about the process for inspecting education records). FERPA provides the student the right to:
  - Inspect and review his/her education records;
  - Request an amendment to the education records if he/she believes there is an inaccuracy;
  - Restrict the release of his/her "Directory Information" from public access;
  - File a complaint with the U.S. Department of Education if he/she feels the University has failed to follow FERPA guidelines. The name and address of the office that administers FERPA is: Family Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202-4605.

## **CONFIDENTIALITY OF STUDENT EDUCATION RECORDS**

FERPA generally prohibits the release of confidential personally identifiable student data, with limited exceptions that include "Directory Information" (see below), without the student's written, signed consent.

Personally identifiable student data, other than “directory information” for students who have not restricted its release, are confidential. Examples of confidential information include, but are not limited to, ID number, social security number, date of birth, ethnicity, gender, country of citizenship, percentile ranks, class schedules (including meeting times and locations), grades, and grade point averages.

Parents have no inherent or legal rights to inspect or receive information about their children’s education records, regardless of age, without the written consent of the student.

FERPA provides certain exceptions for the release of personally identifiable education record information without the student’s written consent. These exceptions include:

- “Directory Information”. (A list of student directory information items is cited in an earlier section of this document.)
- “Legitimate Educational Interest”. Personally identifiable education record information may be disclosed without the student’s written consent to UW-W school officials who are determined to have a “legitimate educational interest” – a right to know and a need to know (i.e., the information is necessary to fulfill the official’s professional responsibility to UW-Whitewater). Legitimate educational interest means:
  - The official must seek the information within the context of his/her professionally assigned University responsibilities; and
  - The information sought must be used within the context of official University business.

Disclosure of education record information to a UW-W school official having a legitimate educational interest does not constitute institutional authorization for that school official to transmit, share, or disclose any or all of that information to a third party. A disclosure of personally identifiable information from the education record of a student, without the student’s written consent, is prohibited unless the disclosure meets one of the specific exceptions cited in FERPA as outlined in the following section.

- Education record information may be disclosed without the student’s written consent in the following instances:
  - a) To the student.
  - b) If it is “directory information” and the student has not restricted its release.
  - c) If properly subpoenaed pursuant to a judicial, legislative, or administrative proceeding, provided UW-Whitewater will make a reasonable attempt to notify the student of the subpoena, in cases where FERPA applies, prior to the release of the information.
  - d) In connection with the student’s application or receipt of financial aid as necessary to determine the eligibility, amount or conditions of the financial aid, or to enforce the terms or conditions of the aid.

- e) In connection with audits or evaluation of federal or state supported educational programs requiring disclosure of information.
- f) To effect collection of past due financial obligations to the University.
- g) To attorneys representing the University when the data on the student is deemed necessary for the defense of the University in a suit filed by the student.
- h) To schools in which the student seeks or intends to enroll.
- i) To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the Department of Education, or state or local educational authorities.
- j) To the Veterans Administration to determine compliance with educational assistance.
- k) To organizations conducting studies for or on behalf of the University.
- l) In connection with a health or safety emergency as determined by the University.
- m) In connection with a crime of violence or a non-forcible sex offense. The University has the discretion to disclose the final results of any disciplinary proceeding against a student who is an alleged perpetrator of a crime of violence or a non-forcible sex offense if, as a result of that disciplinary proceeding, the University has determined that the student in fact committed the crime or offense. The definition of “final results” is limited solely to the name of the student, the violation committed, and any sanction imposed by the University on that student. Only where a victim or witness has provided written consent may the University disclose the name of that student.
- n) The University may disclose to a student’s parent or legal guardian information regarding any drug or alcohol violation (whether pursuant to federal, state, or local law or institutional policy) where the student is under 21 years of age and the University has determined the student has committed a disciplinary violation.

UW-W school officials conducting research using student education records may be required to explain the use of the records in writing. Student organizations that need confidential information about their members may be required to obtain the signatures of all members on a form explaining how the information is to be used (the signatures must be obtained before the information will be released).

School officials who have access to student education record information assume the legal responsibility for protecting the privacy and security of the information.

### **STUDENT ACCESS TO EDUCATION RECORDS**

The student will have access to education records directly related to him/her that are maintained by the University, or any of its agents, and to which FERPA applies.

A student may request access to review and inspect his/her education records by writing to the University official (i.e., registrar, dean, department chair, or other appropriate UW-W person/office) responsible for the records. The written request must indicate the records 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 official to whom the request was submitted, that official shall advise the student of the correct person/office to whom the request should be addressed and it becomes the student's responsibility to submit the request to that person/office. Upon receipt of the written request, the University has 45 days to comply. FERPA does not provide the student with the right to access certain records, including:

- i. Sole possession records
- ii. Parents' financial records used for financial aid purposes;
- iii. Confidential letters and statements of recommendation placed in the student's record prior to January 1, 1975, or confidential recommendations to which the student has given prior written waiver of access and which are used for job placement, admission, or award purposes;
- iv. Law enforcement unit records;
- v. Certain employment records;
- vi. Doctor-patient privilege (medical) records;
- vii. Post-attendance records.

A student has the right to request an amendment of his/her education record that is believed to be inaccurate. However, FERPA was not intended to provide a process to be used by the student to question substantive judgments that are correctly recorded. The FERPA rights of challenge are not intended to allow a student to contest, for example, a grade in a course because he/she felt a higher grade should have been assigned. FERPA is intended to ensure the factual and accurate nature of the information in the student's educational records and the student's right to verify that information.

In those cases where FERPA intended to provide a student the right to request an amendment to an education record, the student should write the University official responsible for the record, clearly identify the part of the record s/he wants changed, and specify why it is inaccurate. If the University decides not to amend the record as requested by the student, the University will notify the student of the decision and advise the student of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of this right.

In the process of challenging the education record information, the student may wish to have copies of appropriate documents in his/her education record file. The University may assess the student a reasonable per copy fee for such documents. This charge does not apply to copies of the student's official academic transcript (there is a \$5.00 charge for each official transcript; the fee is subject to change at any time). A request for a copy of any document in an education record will be denied if the student has a hold/service indicator on his/her records that prevents the release of the official academic transcript, or if the document is a transcript of an original or source document which exists elsewhere.

If UW-Whitewater decides, as a result of a hearing, not to amend the education record in accordance with the student's request, the student may place a written statement in the record commenting upon the information therein, and/or setting forth any reason for disagreement with

the institutional decision not to amend the record. Such a statement will become part of the student's education record and will be disclosed with it.

The student has a right to file a complaint with the U.S. Department of Education concerning alleged failures by UW-Whitewater to comply with the Family Educational Rights and Privacy Act.

### **DECEASED STUDENT EDUCATION RECORDS**

FERPA rights cease upon a student's death. Accordingly, the disposition of UWW education records pertaining to a deceased student is not a FERPA issue but a matter of institutional policy. UW-W does not permit the release of education record information of a deceased student for 25 years after his/her death unless authorized by the executor/executrix of the deceased student's estate, or the student's parents, or the student's next of kin if the student's parents are also deceased and an executor/executrix has not been appointed. However, deceased student educational records may be shared with UW-W school officials who have a legitimate educational interest as defined in earlier sections of the FERPA policy. Records may also be made available for UW-W research purposes.