


LEGAL UPDATE




UNC CHARLOTTE

Wednesday, January 6, 2010
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FERPA:
The Importance of Protecting Student Records


See Policy Statement #69,
Student Records.



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Confidentiality of student records is the responsibility of everyone at UNC Charlotte, including faculty, staff, and students.


- Students rely on the University to protect their privacy.
- Federal law (FERPA) requires it.



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What is FERPA?

- "FERPA" stands for Family Educational Rights and Privacy Act.
- FERPA governs disclosure of student "education records"
- Grants five specific rights to current and former students




Student Rights Under FERPA

- The right to inspect their education records;
- The right to prevent disclosure of their education records;
- The right to seek amendment to their education records if believed to be inaccurate or misleading; to append a statement to their records;
- The right to be notified of their privacy rights under FERPA; and
- The right to file a complaint with the U.S. Department of Education in Washington concerning an alleged failure by the University to comply with FERPA.



Who is covered by FERPA?

- UNC Charlotte's FERPA obligations extend to living students currently attending or who have attended at any time in the past, and only to information collected about them while they were attending (or information gathered post-attendance that is directly related to the students' attendance).
- NC Public Records Act treats records of applicants (whether admitted or not) as confidential; FERPA does NOT require this.



What is a student education record?

Information

- Personal information (other than Directory Information, defined later)
- Grades
- Schedules
- Disability status
- Academic standing
- Social Security Number
- Student ID numbers

Format

- Essentially any format that exists.



What is NOT an education record?

- Law enforcement records
- Employment records
 - Unless dependent on status as student
- Professional records
 - Mental or Physical Health
- Non-circulating faculty or staff records made for personal use
- Peer-graded assignments BEFORE collected by instructor (NEW)
- Certain alumni records



When may education records be released to third parties?

- Directory information
- Consent of student
- Judicial order/subpoena
- School officials with a legitimate educational interest
- Parents under if student is dependant
- Other circumstances



When may education records be released to third parties?


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•Some student information, referred to as “Directory Information,” is exempt from FERPA confidentiality requirements.

Directory Information at UNC Charlotte means: the student’s name, local and permanent address, email address, telephone number, date and place of birth, class, major field of study, dates of attendance, enrollment status, degrees and awards (including scholarships) received, participation in officially recognized activities and sports, weight and height of members of athletic teams, and the most recent previous educational agency or institution attended.

•Students may “opt out” of directory information exemption by placing a “privacy hold” on their account



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Consent of Student

- Must be:
 - Signed
 - Dated
- Must include:
 - Specification of records to be disclosed
 - Purpose of disclosure
 - Identity of the person to whom records will be disclosed

•<http://www.legal.uncc.edu/ferpa-consentforms.html>



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Judicial Orders/Subpoenas

Send 'em our way.



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School Officials with a Legitimate Educational Interest

- Properly qualified School Official?
 - P.S. #69
- Do they have a Legitimate Educational Interest?
 - Have they clearly articulated the interest?
 - Is the interest actual and concrete?
 - Is the interest educationally related?
 - Is the interest narrow in scope?
 - Have they been informed as to restrictions dissemination to others?
- Our responsibility to limit access (NEW)



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Parents

- With consent
- If student is a dependent (check with Registrar)
- Remember, the law **REQUIRES** disclosure to the student; other releases (except subpoenas) are permissive in nature.



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Special Circumstances

- Health or Safety Emergency (NEW: standards recently RELAXED)
- Student victims of crime
- Certain alcohol & drug violations committed by undergraduate students
- Contractors providing services normally performed by employees; requires "direct control" and that contractor must follow our FERPA rules (NEW)



Major FERPA Concepts

- Most records at the University relating to students are protected as education records under FERPA.

- Generally speaking, written consent of the student is required to release education records outside of the University

- When in doubt, ask.